

# JOBKEEPER SCHEME - WHAT YOU NEED TO KNOW & DO



On 9th April 2020, the Treasurer released the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020 which sets out the rules for administering the JobKeeper scheme. **You need to act now, as you must lodge before 26th April 2020 to claim the first two fortnightly payments!**

The Rules are complex, however the following is a summary of what you need to know and do.

To be eligible, you must:

- Be operating a business as at 1st March 2020;
- Have had, or reasonably estimate, a significant decline in turnover (for most businesses, this is a 30% reduction as compared to the corresponding month (or quarter) in the prior year);
- Be an employer of eligible employees (being employed as at 1st March 2020, be at least 16 years old at that date, be an Australian citizen or hold certain Visas);
- Notify the ATO (via the website here from 20th April 2020, noting that the enrolment form needs to be done by 26th April 2020) that you wish to participate in the JobKeeper scheme;
- Lodge application form with the ATO confirming your eligible employees for which you will claim JobKeeper Payments for (available from 4th May 2020 onwards);
- Each month, you will need to reconfirm that your reported eligible employees have not changed through ATO online services, the Business Portal or via your registered tax agent (although the rules state that this must be done fortnightly, the ATO appears to be allowing this to be advised monthly only if circumstances change);
- Notify an eligible employee that you have made an application to the ATO that the employee is part of your JobKeeper scheme (note: the employee must also notify you that they are eligible employees and agree to be included in your JobKeeper scheme);
- Pay an eligible employee a minimum of \$1,500 per fortnight (payments by the ATO will be made in arrears after the end of each month); and
- Notify the ATO within 7 days of the end of each month your current turnover for the month and projected turnover for the following month.

Your decline in turnover is a “projected GST turnover” i.e. an estimate and looks at taxable and GST-free supplies (input taxed supplies are not counted). You only need to satisfy this test once, then you will become eligible for JobKeeper payment until the end of the scheme (end of September 2020). The test can be done by periods of one month (starting March 2020), or quarterly (starting April 2020).

JobKeeper payments can also be accessed by certain business owners (eligible business participant) that are not paid a wage from their business, including:

- Sole traders;
- One individual partner in a partnership;
- One individual adult beneficiary of a trust (where that beneficiary is not an employee); and
- One individual shareholder / director of a company.

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### **So, what do I need to do, right now?**

- Determine, and collate information to substantiate, your actual, or estimated, decline in turnover
- Work out which of your employees are “eligible employees”
- Make sure you pay your eligible employees at least \$1,500 per fortnight
- Register with the ATO before 26th April 2020

The ATO have published an 8 step guide to assist in claiming the first two JobKeeper payments.

More detailed information is outlined below. Clients are encouraged to contact Maxim Advisory to ensure they satisfy both the eligibility and administrative requirements of the JobKeeper scheme.

### **Eligibility**

#### **1. Eligible businesses**

Employers (including not for profits) will be eligible for the JobKeeper payment subsidy if:

- a) on 1 March 2020, they either carried on a business in Australia or were a non-profit body pursuing its objectives principally in Australia;
- b) they have suffered a decline in turnover of at least:
  - i. 30% if their business has an aggregated turnover of less than \$1 billion;
  - ii. 50% if their business has an aggregated turnover of more than \$1 billion; or
  - iii. 15% if their business is a registered charity;
- c) the business is not subject to the Major Bank Levy; and
- d) the business is not, and is not wholly owned by, an Australian Government agency or body.

A company to which a liquidator or provisional liquidator has been appointed, is ineligible to receive the JobKeeper payment, as is an individual to whom a trustee in bankruptcy has been appointed.

#### **2. Decline in Turnover Test**

The decline in turnover is measured against the corresponding period in the previous year. Turnover is measured in accordance with the GST legislation, and measures the entity's taxable and GST-free supplies (input taxed supplies are not measured as part of turnover).

The periods compared can be either a period of one month or three months, as follows:

- a) if a one month turnover test period is being used, it must be one of the months from March 2020 to September 2020, as compared against the corresponding month in 2019, or
- b) if a three month period is being used it must be one of the following periods:
  - i. the quarter that starts on 1 April 2020, compared to the corresponding period in 2019; or
  - ii. the quarter that starts on 1 July 2020, compared to the corresponding period in 2019.

Accordingly, for example, a business can make the comparison by comparing the whole of the month of March 2020 with March 2019, or by comparing the quarter beginning on 1 April 2020 with the quarter beginning on 1 April 2019. These periods align with the reporting periods for which GST registered businesses submit GST returns on their business activity statement and allow the Commissioner to examine changes in GST turnover that is reported.

Where the Commissioner is satisfied that there is no such period in 2019 or it is not an appropriate relevant comparison period, the Commissioner may determine an alternative decline in turnover test.

The decline in turnover test is measured on an entity by entity basis. This means that one entity in a group may qualify, whereas a separate entity in the group may not qualify.

The decline in turnover test needs to be satisfied before an entity becomes eligible for the JobKeeper payment. **Once this occurs there is no requirement to retest in later months.** If an entity does not qualify for a particular month (e.g. the month of April 2020 because its turnover has not been sufficiently affected), it can test in later months to determine if the test is met (e.g. May 2020). This allows entities that only become affected part way through the six-month period of operation of the JobKeeper scheme to continue to monitor for any decline in turnover until they qualify for the scheme in a later period.

### 3. Eligible Employees

An employer is only entitled to a JobKeeper payment for an eligible employee. An eligible employee is a person that was, on 1st March, 2020:

- a) Aged 16 years of age or over,
- b) On the employer's books, and continues to be engaged by the employer – including fulltime, part-time, long-term casuals and stood down employees (casual employees eligible for the JobKeeper Payment are those employees who have been with the employer on a regular basis for at least the previous 12 months as at 1 March 2020),
- c) an Australian citizen, 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, and
- d) not in receipt of:
  - i. parental leave and dad and partner pay under the Paid Parental Leave Act 2010, or
  - ii. workers' compensation.

An eligible employee can only be nominated by one employer. Where an employee has multiple employers, only one employer will be eligible to receive the payment. The employee will need to notify their employer of their eligibility to claim the JobKeeper payment on their behalf.

Casual employees cannot nominate with an employer if they were permanently employed (either full time or part time) by another employer.

### **Payment process**

The fortnight beginning on 30 March 2020, and each subsequent fortnight, ending with the fortnight ending on 27 September 2020, is a JobKeeper fortnight. There are 13 JobKeeper fortnights. Employers will be paid \$1,500 per fortnight per eligible employee. Eligible employees will receive, at a minimum, \$1,500 per fortnight, which will include:

- a) salary, wages, commission, bonus or allowances; and
- b) amounts withheld by the employer for PAYG withholding; and
- c) contributions made under a salary sacrifice arrangement; and
- d) other salary sacrificed amounts.

If the employee previously received less than \$1,500 per fortnight, then they must receive an additional payment to ensure that the total of the above payments equal \$1,500 per fortnight. Additional payments to comply with the \$1,500 minimum payment are not subject to superannuation guarantee.

Payments will be made to the employer monthly in arrears by the ATO. The Commissioner must make the payment for a fortnight no later than the later of:

- a) 14 days after the end of the calendar month in which the fortnight ends; and
- b) 14 days after the Commissioner is satisfied that the employer or business is entitled to the payment for the fortnight.

### **Notification Requirements**

The JobKeeper scheme requires:

- a) an employer to actively seek to participate in the scheme;
- b) an employer to notify the Commissioner in the approved form of the employer's election to participate in the scheme before the employer can be entitled to a payment for a fortnight;
- c) an employer to give information, including details of the eligible employees, to the Commissioner in the approved form;
- d) an employer notify an individual in writing within 7 days of giving the Commissioner details of the individual under paragraph (c);
- e) the individual to give their employer a notice (the nomination notice) in the approved form stating that:
  - i. they satisfy the requirements that they are an eligible employee; and
  - ii. they agree to be nominated by the entity as an eligible employee of the entity for the purposes of the JobKeeper scheme.

The employer election generally needs to be provided to the Commissioner before the end of a JobKeeper fortnight for the employer to be entitled to a payment for that fortnight (i.e. a notification to the Commissioner needs to be made each fortnight), except for the first and second JobKeeper payment

relating to the fortnights commencing on 30 March 2020 and 13 April 2020, where the employer has until 26th April 2020 to provide the Commissioner with its election to participate (the end of the second JobKeeper fortnight). For all subsequent JobKeeper fortnights, the employer will need to notify the Commissioner of the employer's election to participate in the scheme before the end of the particular fortnight.

*The first election notification to be provided to the Commissioner must therefore be submitted by 26th April 2020.*

### **What about the self-employed?**

If you are self-employed, either through a sole trader business, a partnership, a company or trust, you will also be eligible to receive the JobKeeper Payment where you have suffered or expect to suffer decline in turnover relative to a comparable period a year ago, similar to the requirements for an employer.

The individual for whom a business is entitled to the JobKeeper payment must be an individual that is an eligible business participant. An individual is an eligible business participant where the individual is not employed by the business at any time in the fortnight because the individual is the owner of the business.

Similar to the eligible employee requirements, the eligible business participant must satisfy the 1st March 2020 requirement (i.e. 16 years of age or over, engaged in the business and an Australian citizen or certain Visa holder as at 1st March 2020).

Eligible business participants are, for a:

- a) sole trader – the individual sole trader;
- b) partnership – an individual partner;
- c) trust – an adult beneficiary of the trust; and
- d) company – either a director or individual shareholder.

A partnership, trust and company can only nominate one individual as the eligible business participant, and the individual must be actively engaged in the business carried on by the entity.

**Note: Businesses, individuals and entities that deliberately enter into contrived arrangements with the sole or dominant purpose of reducing their turnover in order to gain access to JobKeeper payments or increase the amount of JobKeeper payments they receive will not be entitled to the payment and will be subject to general interest charges on payments made. Additionally, significant administrative and criminal penalties may apply.**

If you would like more information, then feel free to contact either Gino Terriaca, Tony Cassetai, Silvia Caratti or Shirley Godfrey of Maxim Private Advisory on (08) 9489 2555.

*Please note that this is general information only and professional advice should be obtained before acting on any information contained herein.*

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