

April 2020

## Business and Wealth Partners

### INSIDE THIS ISSUE

---

#### PG. 2

Employer Eligibility

Turnover Testing

---

#### PG. 3

Employee Eligibility

Paying Employees

---

#### PG. 4

Superannuation Guarantee

Related Parties

---

#### PG. 5

Lodgement Dates



**business + wealth partners**  
ACCOUNTING AND FINANCIAL PLANNING

#### CONTACT WITH BUSINESS & WEALTH PARTNERS

The below information is based on information we have to hand on 16 April 2020 and will be updated as time progresses. If you have any questions or require any further information please do not hesitate to contact us.

Business and Wealth Partners will remain accessible by email and phone even if the requirement arises to close our Aumuller Street office. Our staff are already equipped to work from home if and when it becomes necessary. We will continue to provide our services and support to our valued clients and be able to meet whatever deadlines are required for 2019 tax returns or upcoming Business Activity Statements required to access the enacted measures.

At this time, we request that you minimise visits to our office and email or post documents where possible. If you do need to come to the office please be aware it is only to drop things off or pick them up. Please do not stay in our reception for any longer than necessary and be considerate of our staff and their safety.

We are not currently undertaking face to face appointments in accordance with government recommendations – we are however happy to do phone, Skype or Facetime appointments during our normal business hours.

If you need any assistance with the enclosed information or any other tax matters we are here to help.

## WHAT IS THE JOBKEEPER PAYMENT?

The JobKeeper Payment is a wage subsidy that will be paid via the ATO to eligible businesses impacted by the Coronavirus. Under the scheme, eligible businesses will receive a payment of \$1,500 per fortnight per eligible employee and/or for one eligible business participant (i.e., an eligible sole trader, partner, company director or shareholder or trust beneficiary). The subsidy will be paid for a maximum period of six months (i.e., from 30 March 2020 up until 27 September 2020). It will be paid to eligible businesses monthly in arrears, with the first payments to employers commencing from the first week of May 2020. The JobKeeper Payment will ensure that eligible employees (and, where applicable, eligible business participants) receive a gross payment (i.e., before tax) of at least \$1,500 per fortnight for the duration of the scheme.

Below is the link to the ATO information regarding the scheme which was released on 14/4/2020:

<https://www.ato.gov.au/general/JobKeeper-Payment/>

### ELIGIBILITY FOR EMPLOYERS

Only employers who can demonstrate a drop in over 30% of their turnover will be eligible – see below re tests for turnover drop. You must elect to participate in the scheme. You may have received an email advising that you can register yourself via the Business Portal or we can register on your behalf. The ATO has advised these forms will be available from 20/4/2020 – **we cannot lodge before that date**. Once we have seen the details of the form, we will create a template of the information we need from you to complete the registration. If you wish for us to register of your behalf please email [info@businessandwealth.com.au](mailto:info@businessandwealth.com.au) for a copy of the template **from 21/4/2020 onwards – it will not be available before then**. The ATO has indicated the forms will be partly prefilled from STP data they hold about employees who were current at 1/3/2020.

### TURNOVER TESTING

The ATO has not yet released the guidelines on how turnover will be tested. Turnover is your sales (exclusive of any GST) but does not include any input taxed income (such as interest received). Ultimately, it is up to each business to self-assess whether it satisfies this test. In most cases, businesses will be required to make a reasonable estimate of their turnover for a month or a quarter. To assist with this process, the ATO (according to Treasury) will be providing guidance in this regard shortly.

In the meantime, it would be prudent for businesses to start collating relevant information (e.g., interim accounts, monthly sales reports and prior year BASs) to get ready for comparison calculations. As a starting point we recommend you look at your March 2019 turnover compared to your March 2020 turnover to see if you qualify on that basis.

Part of the ongoing reporting requirements will be to supply your monthly turnover comparisons to the ATO. We have no information as yet as to how or when this needs to be submitted.

Once a business is eligible based on the 30% drop it is NOT retested and you will continue to receive JobKeeper payments regardless of turnover drop going forward. We regard this as a major flaw in its design – time will tell if the government will revisit once the dust settles or if businesses reopen earlier than currently anticipated.

## ELIGIBILITY FOR EMPLOYEES

A business can only claim a JobKeeper Payment in respect of an employee who is an 'eligible employee'. An 'eligible employee' is an employee who satisfies 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 (i.e., one who has been employed by the employer on a regular and systematic basis for longer than 12 months as at 1 March 2020).
- The employee was at least 16 years of age on 1 March 2020.
- The employee was, on 1 March 2020, either:
  - a resident of Australia for social security purposes (e.g., an Australia citizen, a holder of a permanent visa or a holder of a protected special category visa); or
  - a resident of Australia for tax purposes and was a holder of a Subclass 444 (Special Category) visa.
- The employee has not given any other employer a nomination notice (refer below).
- If the employee is a long-term casual employee – they are not a permanent employee of any other employer.
- The employee is not in receipt of a government-funded parental leave pay or dad and partner pay and nor are they fully supported by a workers' compensation scheme.

Additionally, before an entitlement to the JobKeeper Payment arises, the ATO requires an employer to complete a JobKeeper Employee Nomination Notice to notify eligible employees that the employer intends to participate in the scheme, and ask the employees to agree to be nominated and receive payments from them as part of the scheme. The employee indicates on that same form whether they agree (or not) before returning the form to the employer, who must retain it for five years. If an eligible employee has multiple employers who each send them a nomination form, they can only accept a nomination from one employer (such that only one employer is entitled to a JobKeeper Payment on their behalf).

Please find below the link to the JobKeeper Employee Nomination Notice:

<https://www.ato.gov.au/assets/0/104/300/387/d1aab7f2-fbe8-44b8-9ec1-4885ded1088e.pdf>

Once an employer decides to participate in the JobKeeper Scheme, they must ensure that all of their eligible employees (who have agreed to be nominated for the scheme) participate in the scheme. As the scheme is operated on an 'one in, all in' basis, employers cannot 'pick and choose' which eligible employees will be able to participate in the scheme. This will be a consideration for any employees who you may wish to re-hire (or not) if they had been previously terminated rather than stood down.

## PAYING EMPLOYEES

The JobKeeper Scheme will ensure that eligible employees receive a gross payment (i.e., before tax) of at least \$1,500 per fortnight for the duration of the scheme. Employers are able to pay eligible employees more than this amount, based on the employees' usual pay arrangements. PAYG tax must be withheld from all payments made.

The minimum \$1,500 (before tax) payment requirement will operate as follows:

- (a) If an employee has been receiving at least \$1,500 in gross salary income per fortnight since 30 March 2020, they will continue to receive their regular income according to their prevailing workplace arrangements. In this case, the JobKeeper Payment will effectively subsidise the first \$1,500 of the employee's gross fortnightly salary income.
- (b) If an employee has been receiving less than \$1,500 in gross salary income per fortnight since 30 March 2020, the employer must pay the employee a 'top-up' payment to ensure the employee has been paid at least \$1,500 per fortnight to be eligible to receive the JobKeeper Payment. This means some employees will receive more than their ordinary salary and wages derived from the employer. Employers have until 30/4/2020 to "backpay" these amounts where applicable.
- (c) If an employee has been stood down without pay after 1 March 2020 their employer must pay the employee a minimum gross fortnightly salary income of \$1,500 from 30 March 2020, to be eligible to receive the JobKeeper Payment in respect of the employee. Employers have until 30/4/2020 to "backpay" these amounts where applicable.

(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 employer must pay the employee a minimum gross fortnightly salary of \$1,500 under the JobKeeper Scheme.

The minimum payment must be made by the last day of the fortnight. However, the ATO has already exercised its discretion to allow employers to make the minimum payment for the first two fortnights by the end of April 2020. Going forward, the minimum payment will need to be strictly made by the end of the relevant fortnight.

MYOB has provided some info regarding how to setup Payroll Categories etc. for the JobKeeper payments. Copy the following to your browser to access the info:

[https://help.myob.com/wiki/display/ar/COVID-19+wage+subsidy+\(JobKeeper\)+payments?searchfacet=support:help&searchterm=jobkeeper&\\_ga=2.36269991.642656063.1587008303-863983117.1552963637#undefined](https://help.myob.com/wiki/display/ar/COVID-19+wage+subsidy+(JobKeeper)+payments?searchfacet=support:help&searchterm=jobkeeper&_ga=2.36269991.642656063.1587008303-863983117.1552963637#undefined)

#### **What we don't know:**

- Whether the JobKeeper top up amounts will count towards WorkCover gross wages.
- We know we have to report the number of employees engaged each month – we don't know how or by when – or how Single Touch Payroll data might be used for this purpose.
- If you are not currently Single Touch Payroll compliant in your software the forms need to be manually completed. It is not clear whether this will also mean delays in payments – it is entirely possible it will be – possibly also to push those who have not yet complied with STP reporting into doing so.
- Whether employees can be compelled to work reasonable hours. The JobKeeper enabling directions allow employers to stand down employees or reduce hours where there is not sufficient work. No provision has been made for the employees to have their hours increased beyond their normal hours or days unless the employee agrees. This may be particularly relevant as businesses reopen or rebuild throughout the crisis. Many employers have concerns about whether some employees will be resistant to working given they must be paid the \$1,500 regardless of hours worked – and there may be others working less but getting the same. This will be a HR issue for many businesses. And the employer may find themselves in a difficult position regarding an employee's ongoing employment relationship if they "work for you" in order to receive the payment but do not follow a reasonable direction. If you find yourself in this situation you may need specialist legal advice.

#### **SUPERANNUATION GUARANTEE CHARGE**

SGC is payable on any actual wages paid for work or leave but not on any top up payments or where the employee is stood down.

#### **RELATED PARTIES – YOU!**

**Note: The ATO is yet to release the final details and requirements for eligible business participants (related parties).**

The JobKeeper Scheme also recognises that certain participants in a business have also been affected by the economic downturn caused by the Coronavirus. Accordingly, in order to provide a benefit to such business participants, payments can also be made to an entity in respect of what is referred to as an eligible business participant (i.e., generally controlling individuals who are not employees of their business).

A 'business participant' is an individual who is actively engaged in the business carried on by the entity (i.e., in the operations and activities of the entity) and is either:

- a sole trader;
- an individual partner of a partnership;
- a director or individual shareholder of a company; or
- an adult beneficiary of a trust.

Importantly, however, while a business may have more than one business participant, it can only nominate one of these individuals (who becomes the 'eligible business participant') in respect of whom it can receive a JobKeeper Payment. Obviously, no nomination is needed where the individual is a sole trader. It appears to be irrelevant whether more than one person was receiving wages prior to 1/3/2020 at this stage – this may change once we get the final details.

Further, a JobKeeper Payment can only be claimed by an eligible business in respect of the nominated eligible business participant where all of the relevant conditions are satisfied, some of which include:

(a) The business meets the 30% decline in turnover test

(b) The business had an ABN on or before 12 March 2020 (or such later time that the Commissioner allows) and either the business entity:

- had an amount included in its assessable income for the 2019 income year and it was included in their income tax return lodged on or before 12 March 2020 (or such later time as allowed by the Commissioner); or
- Was GST registered and reported a taxable, GST free or input taxed supply during the period 1 July 2018 to 12 March 2020 on a BAS that was lodged on or before 12 March 2020 (or such later time as allowed by the Commissioner).

(c) The relevant business participant was:

- actively engaged in the business (i.e., in the operations and activities of the entity) as at 1 March 2020;
- not entitled to another JobKeeper Payment, either as a nominated eligible business participant of another business (e.g., as a director or beneficiary) or as an eligible employee;
- not a permanent employee of any other employer;
- at least 16 years of age as at 1 March 2020; and
- on 1 March 2020, either a resident of Australia for social security purposes (e.g., an Australia citizen, a holder of a permanent visa or a holder of a protected special category visa); or a resident of Australia for tax purposes and was a holder of a Subclass 444 (Special Category) visa.

A business seeking a payment for an eligible business participant can register their interest in the JobKeeper Scheme and will need to subsequently make a formal application to the ATO. It is understood that when making a formal application, they will be required to provide their ABN, as well as a single TFN for the eligible recipient of the JobKeeper Payment, and a declaration of business activity.

The ATO currently does not have a formal application for eligible business participants.

## LODGEMENT DATES

We had hoped to receive some news by now regarding extensions of time to lodge 2019 tax returns and March BAS's. Unfortunately, the ATO has still not advised of any blanket extensions and still advise extensions are on a case-by-case basis. This means that our lodgement deadlines of 15 May 2020 and 5 June 2020 remain relevant to the 2019 tax returns at this point in time.

If you need an extension of time beyond these dates please let us know. We will be sending out reminders for those that the dates apply to as the time approaches.

*Please feel free to pass on to any friends, family or colleagues you feel may benefit from our newsletter or our services. If you do not wish to receive our newsletter, please reply with unsubscribe in the subject line.*

### Business and Wealth Partners

209 Aumuller Street | PO Box 1029  
BUNGALOW | QLD | 4870

Phone- (07) 4054 9600

Email- [info@businessandwealth.com.au](mailto:info@businessandwealth.com.au) | Website- [www.businessandwealth.com.au](http://www.businessandwealth.com.au)

