NEWSLETTER

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Business and Wealth Partners

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ACCOUNTING AND FINANCIAL PLANNING

THE JOBKEEPER 2.0 MEASURES ARE STILL NOT FINALIZED BY THE ATO

The below information is based on information we have to hand on 30 September 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.

WHAT IS JOBKEEPER 2.0?

On 21 July 2020, the Government announced that the JobKeeper Payment ('JKP') would be extended by a further six months to 28 March 2021 on a scaled-back basis, with businesses being required to reassess their eligibility to remain in the scheme.

The extension of the JKP by six months to 28 March 2021 will see the scheme tapered with respect to both the December 2020 and March 2021 quarters for all eligible employees and business participants to provide appropriately targeted assistance. In addition, a two-tiered payment system will apply based on hours of work or active engagement.

Importantly, employers and entities with eligible business participants are able to enrol for the JKP for the extension period **even where they have not previously enrolled**, subject to meeting all the new and existing eligibility criteria.

ELIGIBILITY FOR EMPLOYERS

Only employers who can demonstrate a drop in over 30% of their turnover in the relevant quarter (ie. September and/or December) will be eligible – see below re tests for turnover drop.

You must elect to participate in the scheme. If you wish for us to register on your behalf please email info@businessandwealth.com.au for a copy of the template we require for completion. Even if you received JobKeeper 1.0 you need to re-register for JobKeeper 2.0 – it is not automatic.

Note - a business that originally qualified for the JKPs prior to 28 September 2020 may not qualify for Extension Period 1 of JobKeeper 2.0 (e.g., because it did not meet the actual decline in turnover test for the September 2020 quarter). However, if they have the requisite decline in actual GST turnover for the December 2020 quarter (i.e., when compared to the corresponding quarter in 2019) the business may re-qualify for payments under Extension Period 2 of JobKeeper 2.0.

Monthly declarations are required to be lodged to the ATO as they were for JobKeeper 1.0. The September claim for JobKeeper 1.0 also still needs to be submitted by 14/10/2020.

TURNOVER TESTING

The new actual GST decline in turnover test only applies with respect to the six-month extension of JKP (i.e., JobKeeper 2.0) and is broken up into two separate extension periods, as follows:

(a) Extension Period 1 – applies to JobKeeper fortnights that start on or after 28 September 2020 and end on or before 3 January 2021. The additional test will be satisfied where the entity's actual GST turnover has declined by 30% for the quarter ending 30 September 2020, relative to its September 2019 quarter.

(b) Extension Period 2 – applies to JobKeeper fortnights that start on or after 4 January 2021 and end on or before 28 March 2021. The additional test will be satisfied where the entity's actual GST turnover has declined by the 30% for the quarter ending 31 December 2020, relative to its December 2019 quarter.

Effectively, this test will require a business to have had a decline in its actual GST turnover for the September 2020 and/or the December 2020 quarter (as applicable), relative to the actual GST turnover of its comparable quarter in 2019 (being September 2019 and December 2019 respectively), unless an alternative period is determined by the Commissioner.

Unlike the original projected decline in turnover test, there is only one method that a business can use to determine which supplies are taken to be made in a particular test period under the new actual decline in turnover test for JobKeeper 2.0.

Depending on the applicable GST accounting basis that you use for completing your BAS, supplies should be allocated as follows:

(a) Cash basis – supplies are attributed (i.e., taken to be made) when the business receives payment for them. This means that where only a part-payment is received, the supply is only taken to be made to the extent of the payment received.

(b) Non-cash (accruals) basis – supplies are attributed (i.e., taken to be made) to the period a business receives any payment, or when an invoice was issued (if this was prior to the receipt of any payment).

Furthermore, a business cannot generally 'pick and choose' which accounting method (i.e., a cash or non-cash basis) it applies when determining its actual GST turnover under JobKeeper 2.0.

Broadly, actual GST turnover is the amount of sales, excluding supplies such as:

- GST included in sales to customers;
- input taxed supplies (e.g., residential rental income);
- sales not connected with an enterprise (e.g., the sale of a private car);
- sales that are not made for payment (unless it is a taxable supply to an associate);
- payments for no supplies (e.g., JobKeeper payments); and
- sales not connected to Australia (other than those connected with external territories such as Norfolk Island).

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 July 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 July 2020).
- The employee was at least 16 years of age on 1 July 2020 and not engaged in full-time study.
- The employee was, on 1 July 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.
- 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.

These forms do not need to be re-done for employees who were included in JobKeeper 1.0.

PAYING EMPLOYEES

From 28 September 2020, a two-tiered payment system will apply with respect to JKPs. In addition, the amount of the JKP will also be dependent on the fortnight in question, as set out below

	Extension Period 1 (28/9/20 – 3/1/21)	**Extension Period 2 (4/1/21 – 28/3/21)**
Higher rate	$1,200 per fortnight	$1,000 per fortnight
Lower rate	$750 per fortnight	$650 per fortnight

The payment rate applicable to an employee is determined by reference to the actual hours the employee worked, was on paid leave or public holidays over an applicable 'reference period' (refer below).

Specifically, the applicable rate is determined as follows:
• Higher rate – If an employee's total hours were 80 hours or more for the employer over an applicable 28-day reference period, then the employer is entitled to the higher rate in respect of that employee.
• Lower rate – If the total hours of work and equivalent paid leave are less than 80 hours over the applicable 28-day reference period, the lower rate applies.

It is the responsibility of the employer to determine the number of hours that count towards the threshold for an eligible employee, based on existing records that are already maintained in respect of that employee.

There are two standard reference periods for all employees, which consists of the 28-day periods ending at the end of the most recent pay cycle for the employee ending before:
• 1 March 2020 – which is the original reference date; or
• 1 July 2020 – which is the additional reference date for conditions that apply to newly eligible employees of qualifying employers for JobKeeper fortnights starting on or after 3 August 2020.

Employers cannot choose the reference period. These reference periods effectively cover the last two consecutive fortnightly pay periods (or the last four consecutive weekly pay periods) ending prior to 1 March 2020 or 1 July 2020. Importantly, both reference periods are applicable to all eligible employees, irrespective of whether their eligibility is based on the 1 March 2020 or the 1 July 2020 requirements.

Also, employers do not have a discretion to choose which reference period to apply and must have regard to any applicable reference period for any employee that results in the higher rate applying. In other words, the employer is required to apply the most beneficial reference period for their employees. Where these standard reference periods are not considered to be a suitable reference period for a class of employees, the Commissioner has the power to determine an alternative reference period for the hours worked test for particular employees.

Broadly speaking the test is based on the 28 days prior to the last pay run prior to 1/3/2020 (not just the month of February) and the employee must have worked more than 80 hours during that 28 days (on average 20 hours per week) to qualify for the higher rate of $1,200 per fortnight from 28/9/2020. If they worked less than 80 hours in that period they must receive the lower rate.

You must communicate the eligibility with the staff member within 7 days of notifying the ATO which rate they are being included at.

The ATO has advised all employers have until 31/10/2020 to make any top-up payments in relation to JobKeeper 2.0 and ensure all employees have been paid their correct entitlements.

ELIGIBLE BUSINESS PARTICIPANTS – YOU!

Whilst the same payment rates also apply to qualifying entities that have nominated an eligible business participant, the test to determine whether the higher rate or the lower rate applies is based on the hours of active engagement in the entity's business.

This will require a consideration of the hours that the business participant was actively operating the business or undertaking specific tasks in business development and planning, regulatory compliance or similar activities in the applicable reference period. As business participants are not employees, reference periods for business participants are not based on pay cycles, rather, the standard reference period is the calendar month of February 2020. The Commissioner also has the power to set an alternative reference period where the month of February 2020 is not an appropriate reference period for the business participant.

From 28 September 2020, qualifying entities are entitled to the higher rate of JKP in respect of an eligible business participant if:
• the total hours of active engagement by the business participant in the business of the entity over any applicable reference period (i.e., generally February 2020) were 80 hours or more; and
• the business participant has made a declaration in the approved form to the entity (or the Commissioner, if the business participant is a sole trader) that their total hours of active engagement are 80 hours or more for the applicable reference period.

Conversely, the lower rate of JKP will apply in respect of an eligible business participant if they have less than 80 hours of active engagement in the business or they do not provide a declaration to the entity (regardless of the hours of active engagement).

Importantly, entities and business participants must be in a position to reasonably demonstrate the basis on which they have determined that a business participant was actively engaged in the business for the required number of hours in the month of February 2020.

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