$130bn JobKeeper payment:

What does it mean for businesses and NFPs?

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Under the JobKeeper payment, businesses and not-for-profits significantly impacted by the Coronavirus (COVID-19) outbreak may be able to access a wage subsidy from the government to continue paying their employees. This assistance will help businesses to keep people in their jobs and re-start when the crisis is over. For employees, this means they can keep their job and earn an income.

It is estimated that the JobKeeper measure alone will cost $130bn; this brings the Federal Government's total for the stimulus packages to $320bn or 16.4% of Australian Gross Domestic Product (GDP).

In this paper, we discuss that there are special rules for not-for-profit (NFP) organisations. The government estimates there are 57,000 charities operating in Australia who employ 1.3 million in across the sector that could stand to benefit from the measures.

The Australian Taxation Office (ATO) has granted an extension until 31 May 2020 to enrol for April payments and for employers until 8 May 2020 to pay eligible employees $1,500 for each fortnight.

What is the payment?

The JobKeeper payment of $1,500 per fortnight per eligible employee, is a payment to employers to assist them in retaining their staff or to keep in touch with their workforce that might have previously been stood down.

The JobKeeper payment period commenced from Monday 30 March 2020 and will apply for 13 full fortnights until Sunday, 27 September 2020. The payment will be made fora maximum of six months from the date of the announcement. This payment will be made by the ATO one month in arrears; hence the first payment will be made in May 2020.

Who will receive the money?

Eligible employers will receive the payment. However, they have an obligation to ensure that all eligible employees then receive income of not less than $1,500 per fortnight. An employer can be eligible under the following conditions:

- Where turnover is less than $1bn, the employer must show that their turnover has reduced by at least 30% relative to a comparable period one year ago; or
- Where turnover is more than $1bn, the employer must show that their turnover has reduced by at least 50% relative to a comparable period one year ago;
- The employer is not subject to the Major Bank Levy; and
- Businesses that are in liquidation are not eligible for this payment.

Self-employed individuals (businesses without employees) that meet the above turnover tests are also eligible to apply for the payment.

Eligible business participants, including sole traders, adult beneficiaries of trusts and shareholders or directors of companies are also eligible to apply for the payment and have to complete an additional nomination form. A limit applies of one $1,500 JobKeeper payment per fortnight for the eligible business participant.

The entity, not the eligible business participant, receives the JobKeeper payment. The exception is a sole trader, who is both the business entity and an eligible business participant and thereby receives the JobKeeper payment themselves.

Note: NFP organisations are **not** included under the business participation entitlement.

Eligibility criteria for NFPs

Basic test

Not-for-profit entities (including registered charities) that are registered with the Australian Charities and Not-For-Profit Commission (ACNC) will be eligible for the JobKeeper payment if they estimate that their turnover has or will likely fall by 15% relative to a comparable period one year ago.

Excluded from lower turnover decline test (less than $1bn): This lower turnover decline test does not apply to universities and non-government schools that are registered charities; they'll remain subject to the turnover decline tests set out under the section "Who will receive the money?". Universities will be required to include the core government financial assistance provided to universities in the JobKeeper turnover tests.

Inclusions in decline in turnover test: To establish that an NFP has faced or is likely to face the relevant fall in turnover, most would be expected to establish that their turnover has or will likely fall in the relevant month or quarter – depending on their Business Activity Statement (BAS) reporting period – relative to their turnover in a corresponding period a year earlier.

This means that NFPs need to compare their turnover:

- for March 2020 with March 2019; or
- April 2020 with March 2019; or
- estimate for June 2020 quarter with actuals for June 2019 quarter.

Turnover is calculated as it is for GST purposes, and is reported on BASs. It includes all taxable supplies and all GST free supplies but not input taxed supplies. Registered charities may also include donations they have received or are likely to receive in their turnover for the purpose of determining if they have been adversely affected.

Registered charities (excluding schools and universities) can elect to exclude government revenue from the turnover test. This will allow employing charities receiving revenue from government to use either their total turnover, or their turnover excluding government revenue, for the purposes of assessing eligibility for the JobKeeper payment. The idea is to help ensure that the eligibility of charities is not adversely affected where they are delivering significant services that are funded by government.

Alternate Tests

Where an NFP was not in operation a year earlier, or where their turnover a year earlier was not representative of their usual or average turnover (for example, because there was a large interim acquisition, they were newly established, were scaling up, or their turnover is typically highly variable), the Tax Commissioner will have discretion to consider additional information that the NFP can provide to establish that they have been adversely affected by the impacts of the coronavirus. The Tax Commissioner has set out alternative tests that would establish eligibility in specific circumstances.

For example, the entity:

- Commenced business after the relevant comparison period (the business did not exist in that period);
- Acquired or disposed of part of the business after the relevant comparison period (the business is not the same business in that period as it is now);
- Undertook a restructure after the relevant comparison period (the business is not the same business in that period as it is now);
- Increased its turnover substantially by -
  - 50% or more in the 12-months immediately before the applicable turnover test period; or
  - 25% or more in the six-months immediately before the applicable turnover test period, or
  - 12.5% or more in the three-months immediately before the applicable turnover test period;
- Was affected by drought or other declared natural disaster during the relevant comparison period;
- Has a large irregular variance in their turnover for the quarters ending in the 12 months before the applicable turnover test period, excluding entities that have cyclical or regular seasonal variance in their turnover; or
- Is a sole trader or small partnership where sickness, injury or leave have impacted an individual's ability to work which has affected turnover.

The alternative tests are not set out in this paper but should be considered only in cases that do not meet the basic test and fall within the above circumstances.

Note: There will be some tolerance where employers, in good faith, estimate a 30% or more or 50% or more fall in turnover but actually experience a slightly smaller fall. At this stage it is unclear what the tolerance will be.

Aggregated turnover and the 'turnover test'

Aggregated turnover is an entity's annual turnover from carrying on a business plus the annual turnover from carrying on a business of any business or individual connected with or affiliated with the entity.

The turnover test can be confusing; see figure below for an explanation of the types of income that can be considered.

Types of income	GST treatment	Included or excluded in turnover test
Donations	Excluded	Included (see below)
Grants	Depends on nature of: donation (excluded) funding for a particular purpose or supply to be provided (included)	Can opt to exclude government grants
Bequests	Excluded	Included (GST free supply)*
Rental income – residential	Excluded	Excluded (input taxed supplies)
Rental income – commercial	Included	Included
Interest or Dividend income	Excluded	Included
Fundraising	Goods or services supplied then included Can opt before event to include GST	Included

* awaiting further ATO guidance to consider if these should be excluded since these windfalls can skew turnover calculations.

Donations

Deductible gift recipients are required to include gifts received or likely to be received that are tax deductible to the donor under section 30-15 of the Income Tax Assessment Act 1997.

ACNC-registered charities that are not deductible gift recipients must instead include gifts received or likely to be received that are made by way of monetary donations, property with a value of more than $5,000 and listed Australian shares. For either type of entity, gifts that they receive from an associate are not included in their turnover. This ensures that an increase to an entity's turnover from gifts they receive, or are likely to receive, are only taken into account where the gifts make a substantive change to the overall economic position of the entity and its related parties.

This ensures that:

- the decline in turnover test can apply appropriately to ACNC-registered charities and deductible gift recipients which may not make supplies for GST purposes or only limited supplies;

- when such ACNC-registered charities or deductible gift recipients have a significant decline in donations they may qualify for the JobKeeper scheme.

In addition, certain donations that ACNC-registered charities and deductible gift recipients receive or are likely to receive (including the non-monetary value of gifts) are also to be included in the calculation to work out the current GST turnover and projected GST turnover of these entities.

What does this mean for eligible employers?

Eligible employers with eligible employees will receive a fortnightly payment for each eligible employee.

Eligible employees are:

- Full-time and part-time employees, including stood down employees that were employed on 1 March 2020 that are retained or continue to be engaged by their employer;
- Casual employees that were employed on 1 March 2020 that have been employed by their employer for at least 12 months;
- At least 16 years of age;
- An Australian citizen, holder of a permanent visa, 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 (444 – New Zealand citizens) visa holder;
- Not in receipt of a JobKeeper payment from another employer; and
- Not in receipt of parental leave pay from Services Australia (but employees receiving parental leave from their employers are eligible);
- Special rules apply to those employees on workcover.

Note: Employers that have already taken steps to stand down or otherwise reduce their workforce, are able to re-engage employees to receive the JobKeeper payment.

All eligible employees of an entity who are undertaking work for an employer, or who have been stood down will be included in the JobKeeper claim for an employer. The employer cannot select which eligible employees will participate in the scheme. ***This 'one in, all in' rule is a key feature of the JobKeeper scheme***.

Employers participating in the program are required to ensure that all eligible employees will receive at least $1,500 before tax per fortnight, regardless of the amount that the employees were paid prior to receiving the JobKeeper payment, i.e. if an employee previously received less than this amount employers are required to give the employee a pay rise or "top up" to bring their income up to $1,500 before tax per fortnight. Employers have a choice if they wish to pay superannuation on any additional wage paid to employees as a result of the JobKeeper payment.

Wages includes the following amounts:

a. Amounts paid by the employer to the individual in the fortnight by way of salary, wages, commission, bonus or allowances;

b. Amounts withheld by the employer (under normal PAYG-Withholding rules or HECS-HELP loan repayment rules);

c. Contributions made by the employer in the fortnight to a superannuation fund or retirement savings account (RSA), if the contributions are made as part of a salary sacrifice arrangement; and

d. Other amounts dealt with in the fortnight in agreement with the employee – generally this means other salary sacrifice arrangements.

Reasonable rules will apply where employees are paid on different payroll timeframes (e.g. – an employee paid at least $3,000 before tax for a four-week period would qualify as satisfying the wage condition).

For example:

John currently earns $1,000 per fortnight from his employer, before tax. On this amount, the business pays $95 (9.5%) to John's superannuation fund.

As part of the JobKeeper payment, the business increases John's wages to $1,500 per fortnight. The business has the discretion as to whether they pay the 9.5% super guarantee on the additional $500 in wages paid to John.

Eligible employees have to complete a nomination form and provide it to their employer. This is to ensure that each employee is given the opportunity to nominate which employer they would like to claim the JobKeeper from and are aware that employers are claiming the JobKeeper for them.

Payments will be made to employer monthly in arrears by the ATO.

Timing:

The JobKeeper payment period commenced from Monday 30 March 2020 and will apply for 13 full fortnights until Sunday 27 September 2020.

Regardless of the frequency of regular pay cycles or out of cycle pay periods, or the pay period start and end dates, the $1,500 per fortnight applies to the ***paydays*** (payment date) within the defined fortnights and from which fixed fortnight the payment applies.

For the transition into the JobKeeper payment, the employer can retrospectively apply this payment for paydays on or after 30 March by 8 May 2020.

The relevant fortnights for April and May 2020 are:

- Fortnight 1 - from 30 March to 12 April
- Fortnight 2 - from 13 April to 26 April
- Fortnight 3 - from 27 April to 10 May
- Fortnight 4 - from 11 May to 24 May

What does this mean for employees?

Employees with more than one employer are required to inform their primary employer the JobKeeper payment can only be received once. Employees that are not an Australian citizen are required to inform their employer of their visa status to allow them to determine eligibility. Employees that currently receive an income support payment, including the JobSeeker payment and coronavirus supplement are required to inform Services Australia as the JobKeeper payment must be reported as income and this could affect entitlements to other support payments.

Employer obligations for JobKeeper application

Source: Fordham Bookkeeping, April 2020

To receive the JobKeeper payment, employers must:

- Apply at ato.gov.au and assess that they have or will likely experience the required turnover decline.
- Provide information to the ATO on all eligible employees. This includes information on the eligible employees engaged as at 1 March 2020 and those currently employed by the business or not-for-profit (including those stood down or re-hired). For most businesses or not-for-profits, the ATO will use Single Touch Payroll (STP) data to pre-populate the employee details for the business or not-for-profit.
- Notify all eligible employees that they are receiving the JobKeeper payment and provide each employee of the entity with a nomination form unless there's a reason to believe that the employee does not satisfy the eligibility requirements. Keep completed nomination forms on record.
- Ensure that each eligible employee receives at least $1,500 per fortnight (before tax). Employees who receive $1,500 per fortnight or more from their employer will continue to receive their regular income according to their prevailing workplace arrangements. For employees that have been receiving less than this amount, the employer will now need to pay them a JobKeeper top up, at a minimum, $1,500 per fortnight before tax. Ensure that you notify the ATO either through STP or alternate means of payments made to employees for relevant period.
- Continue to provide information to the ATO on a monthly basis, including the number of eligible employees employed by the business and estimated turnover (see below).

Application process

Eligible employers will be able to apply for the scheme by means of an online application and will need to identify eligible employees for JobKeeper payments and must provide monthly updates to the ATO. An employer that elects to participate is required to include all eligible employees in the scheme.

Monthly reporting

An entity that is entitled to a JobKeeper payment for a fortnight must notify the Tax Commissioner of its current GST turnover for the reporting month; and its projected GST turnover for the following month.

All ACNC-registered charities and deductible gift recipients that are eligible for the JobKeeper payment must also report to the Tax Commissioner the amount of certain donations that they have received in the past month and certain donations that they have received or expect to receive in the month in which the reporting time occurs. The particular donations that must be included are those that are included in working out their decline in turnover (see above).

The reporting month is a month in which there is a fortnight for which the entity is entitled to a JobKeeper payment. The report must be made to the Tax Commissioner in the approved form and must be made within seven days of the end of the reporting month.

The information provided as part of this report does not affect an entity's eligibility, including in respect of the decline in turnover test (which only needs to be satisfied once). It is also not intended to verify whether the projection given as part of the decline in turnover test was accurate. Rather, it is intended to ensure that there is good information on which to assess the economic impact of the coronavirus on a monthly basis across Australia.

In summary

For employees that ordinarily receive $1,500 or more in income per fortnight before tax, nothing changes as the JobKeeper payment will be received by employers as a subsidy for their wages.

Employees that ordinarily receive less than $1,500 in income per fortnight before tax will receive a 'top up' as they are required to receive, at a minimum, $1,500 per fortnight before tax. These payments must be reported as 'JobKeeper top up'.

For employees that were employed on 1 March 2020 and have been subsequently stood down or otherwise ceased employment, employers can re-engage with these employees to ensure that they receive, at a minimum, $1,500 per fortnight before tax.

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Need help?

Working through the steps to determine individual eligibility and employee eligibility can seem difficult. The application process is far simpler after the eligibility requirements are considered.

Where the basic or alternate tests are not met in the first instance, eligible employers/employees may continue to assess eligibility in fortnights going forward. Remember: the eligibility tests are required to be met once, but the monthly reporting is an ongoing requirement.

For a confidential discussion on the JobKeeper payment program, or to discuss any other business plans or requirements, please contact Fordham Bookkeeping Service on 03 9611 6667 or email Rachna D'mello at rdmello@fordhamgroup.com.au

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