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COVID-19

TAX ALERT - JUNE 2020

TREASURY REVISES DOWN ESTIMATED JOBKEEPER COST BY $60 BILLION

The ATO and Treasury have released a joint statement advising that the previous estimate of the number of employers who would access the JobKeeper program was significantly overstated. Treasury now estimates the number of employees covered under the JobKeeper program to be around 3.5 million (down from a previous estimate of 6.5 million). The estimated cost of JobKeeper has been revised down to around $70 billion (from the original $130 billion estimate).

The overstatement has been attributed to errors made when employers applied for JobKeeper. For example, when estimating their eligibility over 500 businesses with only a single eligible employee actually reported the dollar amount that they expected to receive per fortnightly JobKeeper payment (1,500) instead of the number of their eligible employees (1).

Importantly, this error has no consequences for JobKeeper payments already made, as payments under the scheme depend on the subsequent declaration that businesses make in relation to each and every eligible employee. This declaration does not involve estimates and requires an employer to provide the Tax File Number (TFN) for each eligible employee.

TIP: Employers must declare their eligible employees monthly in order to receive the ongoing payments. JobKeeper declarations for May must be made by 14 June 2020.

SNAPSHOT OF FEDERAL COVID-19 PANDEMIC MEASURES

Tax-related business measures

- *Cash flow boost payments:* Tax-free payments of up to $100,000 are available for eligible small and medium sized entities and not-for-profits (including charities) that employ people, with a minimum payment of $20,000.
- *Instant asset write-off:* From 12 March to 30 June 2020, the threshold increases to $150,000 for business entities with aggregated annual turnover of less than $500 million.
- *Accelerated depreciation:* Businesses with aggregated turnover of less than $500 million can deduct capital allowances for depreciating assets at an accelerated rate. This measure extends over the 2019–2020 and 2020–2021 income years.
- *Research and Development (R&D) Tax Incentive:* The Government has deferred the lodgment dates for R&D Tax Incentive applications for 2018–2019 until 30 September 2020.

Superannuation

- *Superannuation early release:* Eligible people affected by COVID-19 can apply to release (tax-free) up to $10,000 of their superannuation in 2019–2020 and up to $10,000 in 2020–2021.
- *Temporary residents:* Certain temporary residents impacted by COVID-19 may apply for early release of up to $10,000 of their super by 30 June 2020.
- *Super pension drawdowns reduced:* The minimum annual payment amounts for certain pensions and annuities have been temporarily reduced by 50% for 2019–2020 and 2020–2021.

Social security and support

- *Fortnightly Coronavirus Supplement:* This $550 supplement is available for six months for job seekers, sole traders, students and some others. It effectively doubles the current payment for new and existing social security recipients from 27 April 2020. It will be paid for six months to both existing and new recipients of the JobSeeker Payment, Sickness Allowance, Youth Allowance for jobseekers, Parenting Payment Partnered, Parenting Payment Single, Partner Allowance, Sickness Allowance and Farm Household Allowance.
- *Stimulus payments for income support recipients:* The first $750 cash stimulus payment has now gone out to 6.8 million eligible pensioners, carers, disability support pensioners, those on family tax benefits and

concession card holders. A second $750 payment will be made from 13 July 2020 for eligible income recipients and concession card holders.

- *Regional and sector support:* The Government has set aside an initial $1 billion to support regions, communities and industries that have been disproportionately affected by the economic impacts of the pandemic, including those heavily reliant on industries such as tourism, agriculture and education.

ATO concessions

- *Deferring tax payments:* Tax payment dates may be deferred by up to six months for tax amounts due through the BAS. This includes PAYG instalments, income tax assessments, FBT assessments and excise.
- *Varying PAYG instalments:* The ATO has allowed businesses to vary their PAYG instalment amounts to zero for the March 2020 quarter. Businesses that vary their PAYG instalment to zero can also claim a refund for any instalments made during the 2019–2020 financial year.
- *ATO automatic lodgment deferrals:* Company 2018–2019 income tax returns are now due by 5 June 2020 and SMSF 2018–2019 annual returns by 30 June 2020. For individuals, partnerships and trusts, 2018–2019 income tax returns can be lodged by the 5 June 2020 concessional due date. Finally, the due date for 2019–2020 FBT annual returns has been deferred to 25 June 2020.
- *Working from home deductions:* The ATO will accept tax deduction claims using a flat rate of 80c per hour, provided a diary of working hours is kept.
- *FBT:* If entities provide or pay for goods or services to assist employees who are sick or are at risk of becoming sick with COVID-19, this will generally be exempt from FBT if the benefit is provided for their immediate relief.
- *Switching to monthly GST reporting:* Businesses on a quarterly reporting cycle can elect to switch their GST reporting and payment to a monthly cycle to get a quicker GST refund.

Financial institutions

- *Bank loan deferrals:* Banks will defer loan repayments for six months for small businesses with total business loan facilities up to $10 million who need assistance because of COVID-19.
- *Bank assistance for JobKeeper:* The major banks have agreed to set up a dedicated hotline for customers needing to access bridging finance to pay their staff ahead of receiving money under the JobKeeper program. The banks have also agreed to expedite the processing of those JobKeeper applications.

TIP: The ATO has a range of regularly updated webpages that provide answers to common COVID-19 support questions, including on:

- ***JobKeeper for employers, and for employees;***
- ***Income tax impacts for people who work and earn money overseas but have returned to Australia because of COVID-19; and***

Tax considerations and other financial impacts for residential rental property owners, including rent and loan payment changes, and personal use of short-term accommodation like holiday houses.

JOBKEEPER: MEASURING DECLINE IN TURNOVER

Businesses (including sole traders and charities) must have suffered a "substantial decline" in turnover to qualify for the JobKeeper Payment of $1,500 per eligible employee. The basic decline in turnover test requires an entity to measure its projected GST turnover for a turnover test period in 2020 and compare this to the current GST turnover for a relevant comparison period in 2019. In particular, the entity needs to allocate supplies made, or likely to be made, to a turnover test period or relevant comparison period based on when the supply is made or is likely to be made, and to then determine the value of those supplies. Any shortfall is to be expressed as a percentage. If this equals or exceeds specified thresholds, the entity satisfies the decline in turnover test.

The ATO has recently issued Law Companion Ruling LCR 2020/1, a non-binding ruling that explains various aspects of the test and sets out practical compliance approaches for calculating turnover.

STP EXEMPTION FOR SMALL EMPLOYERS EXTENDED TO JULY 2021

The ATO has extended the Single Touch Payroll (STP) exemption for small employers in relation to closely held payees from 1 July 2020 to 1 July 2021 in response to COVID-19.

TIP: A "small employer" is one that has 19 or fewer employees, and a "closely held payee" is someone who is directly related to the business, company or trust that pays them, such as family members of a family business, directors or shareholders of a company or beneficiaries of a trust.

This STP exemption for closely held payees applies automatically and small employers do not need to apply to the ATO to access it. However, employers should keep records to support their decision to apply the concession.

PROCESSING OF SUPER EARLY RELEASES RESUMES WITH EXTRA RISK FILTERS

Processing of COVID-19 early release of superannuation applications has now resumed, with the ATO adding extra risk filters for all files that are delivered to super funds. These release requests had been temporarily paused between 8 May and 11 May 2020 so that the ATO could consider enhancements to its systems to help protect individuals' personal data.

Assistant Treasurer Michael Sukkar recently reported that the ATO had identified a small number of third parties who could be susceptible to new techniques that criminals are using to try to steal personal data. The ATO has now worked with these third parties to help them make security enhancements, Mr Sukkar said, and the resulting additional risk filters will be applied on all files before they are delivered to super funds.

TIP: You should always be vigilant about how you store and share your personal information. Your myGov login details should never be shared with anyone, and you should be wary of phone calls, emails or text messages that request personal information. The ATO will never send you a direct link to log on to MyGov or other ATO online services.

DIRECTORS' DUTIES STILL APPLY DESPITE COVID-19 RELIEF

The Australian Securities and Investments Commission (ASIC) has reminded companies, directors and officers faced with COVID-19 challenges to reflect on their fundamental duties to act with due care, skill and diligence, and to act in the best interests of the company.

ASIC Commissioner John Price has said the impacts of COVID-19 will require many companies to focus on and, most likely, recalibrate aspects of their corporate strategy, risk-management framework, and funding and capital management, among other things. This will require directors to reflect on which stakeholders' interests need to be factored into decisions – including employees, investors and creditors. This is still the case even in areas where temporary relief has been provided from specific obligations under the law.

ASIC will maintain its enforcement activities and continue to investigate and take action where the public interest warrants it. Whether action is taken depends on the assessment of all relevant circumstances, including what a director or officer could reasonably have foreseen at the time of taking relevant decisions or incurring debts.

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