Federal Government's third stimulus

THE JOBKEEPER PACKAGE

An analysis of COVID-19 measures announced 30 March 2020

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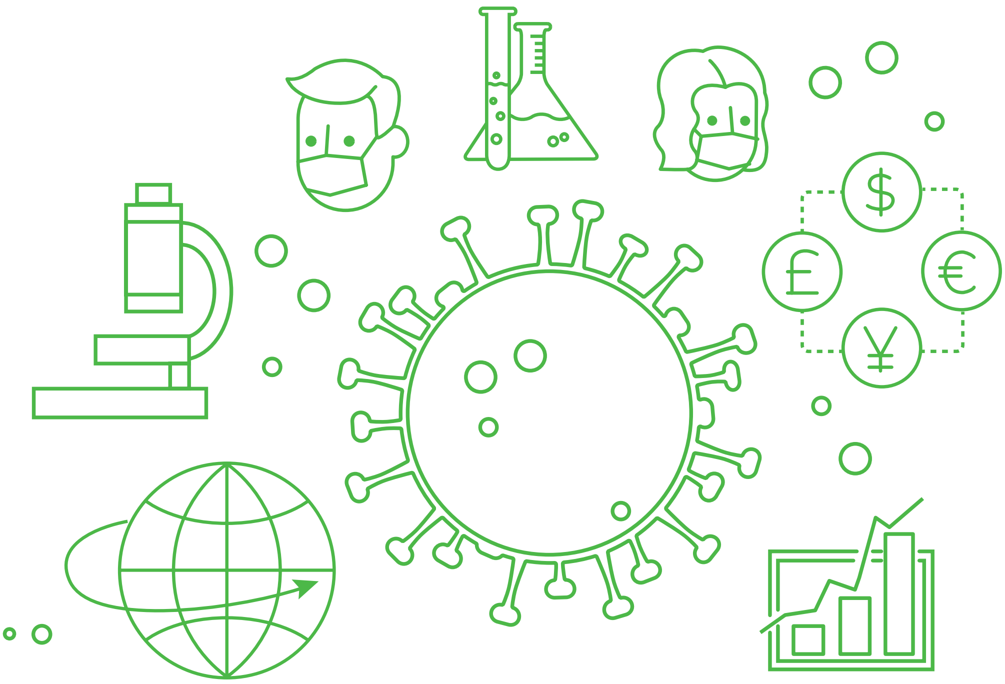
www.rsm.com.au/coronavirus



Overview

Six million people to benefit from new COVID-19 JobKeeper payments, including gig economy workers.

As businesses struggle to deal with a cash flow crisis whilst fighting a health crisis, the Federal Government has announced the JobKeeper Payment which could help around six million Australian workers.

Businesses impacted by COVID-19 can register their interest to receive the JobKeeper Payment, a $1,500 fortnightly payment for each employee who is full-time, part-time or long-term casuals.

Prime Minister Scott Morrison's $130 billion economic stimulus package is aimed directly at helping businesses preserve jobs whilst allowing employees to earn an income, even if their hours have been reduced.

Affected employers can claim the fortnightly payments from 30 March 2020, for a maximum period of six months.

> Our tax specialists who have done the analysis on how this measure will provide much-needed cashflow relief says this is a win for eligible employees who currently earn less than $1,500 per fortnight before tax.

You'll find more details about the JobKeeper Payment in this document.

Our R&D tax specialists have also been working through the impact of COVID-19 on the R&D Tax incentive. Claimants have been granted a five-month extension to August 2020. While lodging an R&D application may be a seemingly low priority for some businesses at the moment, it is worth highlighting that the R&D tax incentive refund, for companies meeting the cash refund criteria, is a cash payment directly to the company. Read on for more on this.

In vulnerable times such as this, scammers are also scheming to exploit Australian businesses. From false vendors to phishing scams, our fraud and forensics team highlight a number of current COVID-19 scams which they are continuing to monitor closely.

We hope you find this information useful in navigating this very difficult time.

If you have any questions, we are available to help you make sense of it.

JobKeeper $1500 payment

Further support to businesses to retain workers

The Federal Government announced on 30 March 2020 further support measures for businesses and individuals impacted by COVID–19. The JobKeeper payment for eligible employers will be effective from 30 March 2020 and delivered through the tax system.

JobKeeper payment

The JobKeeper payment will provide cashflow relief to assist employers retain their employees and financial support to individuals who have been stood down since 1 March 2020.

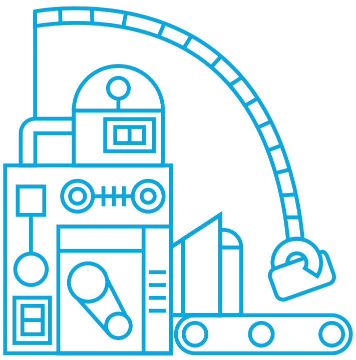
Key elements of the measure include:

- The JobKeeper payment will be paid to eligible employers for up to six months.
- The payment will be made in respect of employees who were on the books at 1 March 2020, have been retained and continue to be engaged by the employer.
- Full time and part time employees, including stood down employees will be eligible to receive the JobKeeper payment
- A casual employee that has been with their employer for at least the previous 12 months will also be eligible.
- Eligible employees must be over 16 years in age.
- Businesses without employees, such as sole traders, will be eligible for the JobKeeper payment. These businesses will be required to provide an ABN for their business and nominate an individual to receive the payment. The business must also provide that individuals Tax File Number and provide a declaration as to recent business activity.
- Eligible employees will only be eligible to receive this payment from one employer.
- Eligible employers are those will annual turnover of less than $1 billion who have had a 30 percent or more reduction in revenue from 1 March 2020.
- Employers with annual turnover of greater than $1 billion would be required to demonstrate a reduction in revenue of 50% or more to be eligible.
- Reduction in revenue will be tested over a minimum one month period post 1 March 2020 and will be relative to a comparative period a year ago.
- Eligible employers include companies, partnerships, trusts, sole traders and not for profit entities including charities.
- Eligible employers will receive a payment of $1,500 per fortnight per eligible employee.
- The JobKeeper payment will be made to eligible employers even where their business is in hibernation.
- Every eligible employee must receive at least $1,500 per fortnight from this business before tax.
- Eligible employees include Australian residents, New Zealand citizens in Australia who hold a subclass 444 special category visa, and migrants who are eligible for JobSeeker Payment or Youth Allowance (Cth).
- JobKeeper payments will be delivered to employers though the ATO. Payments to employees is likely to be processed through single touch payroll. Monthly updates will be required to be provided to the ATO.
- Businesses are not required to pay the superannuation guarantee on any additional wage paid because of JobKeeper payments, although they may so choose.

Eligible businesses can apply for the payment and register their interest online via the ATO website.

We await guidance on the definition of annual turnover and whether this will be aggregated turnover or limited to the annual turnover of the actual employer.

> It is interesting to note eligible employees must receive at least $1,500 per fortnight before tax from the eligible employer. Where the employee was receiving less than this amount, the employer will have to 'top up' their payment. This is a win for eligible employees who currently earn less than $1,500 per fortnight before tax.



JobSeeker Payment — Support Partner Income Test

The Federal Government has also announced they will temporarily relax the partner income test to ensure a person eligible to receive the JobSeeker Coronavirus Supplement, provided their partner earns less than $3,068 per fortnight (approximately $79,762 per year).

The personal income test for individuals on JobSeeker Payments will remain the same.

Further announcements are expected in the coming days on additional support measures for business. We note the announced measures will not become law until the legislation has been passed by both Houses of Parliament and receives Royal Assent.

Parliament was not scheduled to sit again until August 2020, however given the urgency of these measures we anticipate Parliament will be recalled early.

If you are an employer and you require assistance in determining eligibility for the JobKeeper payment, including assistance in determining reduction in revenue and eligibility for other COVID-19 and ATO administrative measures, please contact your local RSM adviser.

Clarification required following economic stimulus packages

Fear and uncertainty resulting from the economic impact of COVID-19 (coronavirus) continues to affect business owners and individuals alike. There are immediate issues impacting taxpayers that require clarification.

Cash boost for business

The cash boost for business has been designed to keep people in jobs, however the legislation introducing the measure proves to be somewhat more complex than first suggested in original media releases and Treasury fact sheets.

While integrity measures are applauded, determining eligibility for the cash boost has been complicated by requirements surrounding having an 'active' ABN.

In order to satisfy the 'active' ABN requirement, one of two tests must be satisfied, these are:

1. An amount was included in the entity's assessable income for the 2018-19 income year in relation to it carrying on a business and the 2019 income tax return was lodged before 12 March 2019 (or a later time allowed by the Commissioner); or
2. The entity made a taxable supply in a tax period between 1 July 2018 to 12 March 2020, and notice was provided to the Commissioner on or before 12 March 2020. In effect this means the entity was registered for GST, or was required to be registered for GST, the entity made a taxable supply and details of the supply were reported in the relevant BAS lodged with the ATO.

Whilst most businesses who employ staff will be able to satisfy the above criteria, we have identified potential issues with accessing the cash boost for business. In particular:

- The entity has not lodged their 2019 income tax return
- The entity is not required to be registered for GST
- The entity is registered for GST but due to the nature of the business has not made a taxable supply during the 2019 year

This may have potential application to small business owners who are not registered for GST and businesses such as junior exploration companies or the forestry industry, where the entity is registered for GST and carrying on a business but have not made taxable supplies because of the cyclical nature of the business.

In these scenarios, while the business may have employees, they do not technically meet the eligibility criteria to receive the cash boost.

The issue may be overcome by requesting an extension of time from the Commissioner, however urgent clarification is required on the process required in order to do this, and whether entities such as those described above will slip through the cracks and not be eligible for the cash boost for business to support their employees.

Division 7A

In the 2019-20 Budget, the Government announced the start date for changes to Division 7A would be delayed by 12 months making it 1 July 2020 to *"allow additional time to further consult with stakeholders on these issues [and] to ensure appropriate transitional arrangements so taxpayers are not unfairly prejudiced."*

It is now the end of March 2020 and we are yet to see signs of further consultation. Closure of Parliament due to COVID-19 restrictions means it will not sit again until August 2020. With 1 July 2020 a proposed start date for the Division 7A changes, taxpayers are now in the situation where they are unable to prepare or plan for any proposed changes. Draft legislation has not been released and even once released will not be considered until August 2020 at the earliest.

CGT MRE for foreign residents

The deadline for the transitional period of the Capital Gains Tax (CGT) Main Residence Exemption (MRE) for foreign residents is fast approaching. Expats who do not intend to re-establish residency have until 30 June 2020 to sell their homes in order to claim a full or partial CGT MRE before the draconian changes to the law come into full effect.

Coronavirus has had a far-reaching and continually evolving impact on Australian residents and expats who can't return to Australia due to border closures and self-isolation restrictions.

Expats who wish to return to Australia and re-establish residency may find it difficult to do so and the Government enforced shutdown of public auctions and home opens means expats who have their former Australian main residence on the market may find it difficult, if not impossible to sell before the 30 June 2020 deadline. The 'life event' exceptions contained within the legislation denying the CGT MRE to foreign residents, like most things, do not extend to the impact of pandemics.

Under the current law, expats who will now be unable to sell their homes due to Government restrictions may find themselves unable to comply with the 30 June 2020 deadline and lose eligibility for the CGT MRE through no fault of their own. Ironically, these taxpayers may be forced to pay a significant amount of tax because of a Government regulation introduced subsequent to the change in law which now places then in a position where they are now incapable of complying with the law.

Main residence — six year rule

Resident taxpayers who have used their former main residence to produce income can generally continue to treat the dwelling as their main residence for CGT purposes for six years. Where the six year time limit is approaching, resident taxpayers who are unable to sell their home or move back into it because of State and Federal Government COVID-19 restrictions may also find they are exposed to an unexpected CGT liability.

FBT — definition of taxi (Uber v taxi)

Legislation amending the definition of taxi under the *Fringe Benefits Tax Act 1986* (FBTAA) is currently before the Senate. The legislation brings the definition in line with the definition of taxi for GST purposes and will extend the FBT exemption for taxi travel to include ride sourcing vehicles such as Uber.

The amending legislation applies to the 2019-20 FBT year, which is problematic for employers given Parliament will not sit again until August 2020. Impacted employers will need to prepare their 2020 FBT returns based on current law, and if necessary, amend FBT returns once the legislation is passed.

Compulsory superannuation guarantee — emergency exemption

Earlier this year, RSM wrote to the Treasurer asking the Government to consider introducing legislation to provide a special 'disaster' exemption for non-compliance with payment of compulsory employee superannuation contributions where the employer is physically unable to meet their obligations due to an unprecedented natural disaster.

The response at the time was the Government was not considering any change to superannuation policy.

We are now faced with another unique event which may impact on the ability of employers to meet compulsory employee superannuation obligations. While in no way condoning the behaviour of recalcitrant employers, many business owners have been forced to close and others will be facing significant loss of revenue due to coronavirus and as a result may not have the cash resources to meet compulsory superannuation obligations.

Business owners who actually contract the virus and are hospitalised will not be able to make payments from an ICU bed.

Coronavirus is a one in a hundred-year event, we implore the Government to reconsider superannuation policy and provide an exemption or temporary concession to allow employers more time to pay compulsory superannuation contributions where they are directly impacted by COVID-19.

Superannuation amnesty

The superannuation amnesty passed by Parliament earlier this year provides employers a one off opportunity to make good on historical non-compliance with compulsory superannuation obligations incurred between 1 July 1992 and 31 March 2018.

Employers who identify non-compliance have until 7 September 2020 to make the necessary disclosure to the Commissioner of Taxation and to make payment of the outstanding superannuation.

With coronavirus impacting so many employers and the shutdown of all non-essential services, access to cashflow to make good on historical non-compliance may become increasingly difficult if not impossible.

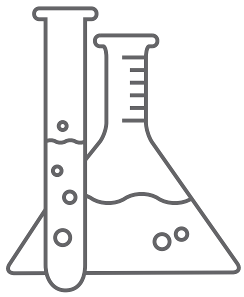
We recommend the Government consider extending the deadline for a further 6 to 12 months to allow for the unanticipated downturn in the economy. This would also provide an opportunity to employers trying to make good as the economy improves rather than placing significant additional cash flow pressure on them in the immediate future.

Allowing additional time in this environment can only have a positive outcome, particularly where businesses may be faced with a choice of job losses and business closure over delaying the payment of superannuation obligations.

RSM acknowledges the efforts of the Government in addressing the economic impact of coronavirus. These are difficult and challenging times for all however taxation obligations do not cease even in the face of natural disaster or unprecedented emergency.

In the interests of providing comfort and certainty for taxpayers, we implore the Government to turn their attention to the outstanding issues outlined above and welcome any announcements relating to Government policy.

Has coronavirus impacted the R&D Tax Incentive?



What claimants need to know

The short answer is, not much. While COVID-19 wreaks havoc on humankind and the economy alike, the R&D incentive may just be the silver lining in a coronavirus shaped cloud.

For starters, controversial proposed changes to the R&D tax incentive scheduled to pass legislation before end of financial year will likely be deferred until Parliament resumes. Coupled with a well backed campaign calling for changes to be postponed and reviewed following the full impact of COVID-19, the proposed legislation may well be on shaky ground.

Secondly, at a time where 'cash is king' has become a war cry, the R&D benefit is imperative for businesses that are scraping to succeed.

2019 and 2020 Claims

Companies seeking to claim the incentive must lodge their R&D application within 10 months from their financial year end.

Companies with a 30 June year end have until 30 April the following year to lodge their R&D application, the April 30 R&D tax incentive lodgement deadline is fast approaching.

AusIndustry has come to the party offering an extended lodgement date of 30 September 2020. While this seems a generous offer, the reality is (aside from claimants needing to meet certain hardship criteria) delaying lodgement is in reality just delaying any potential benefit to which the company may be entitled.

Companies carrying out R&D activities during the current 19/20 financial year and anticipating an R&D cash rebate when they lodge their 2020 income tax return should be diligently using this period of social isolation to ready their claim in order to lodge at 1 July to receive the cash rebate as soon as they can.

This opportunity may actually have the additional benefit to those companies eligible for the cash refund by bringing that refund into the company in the first half of the 20/21 financial year – this boosts company cash flow when it is needed the most.

While lodging an R&D application may be a seemingly low priority for some in the current environment, it is important to note that the R&D tax incentive refund, for companies meeting the cash refund criteria, is a cash payment directly to the company.

R&D Tax Incentive finance options

Something more to be mindful of is the number of finance providers offering companies the opportunity to debt finance against their current year's R&D Tax rebate.

Effectively rather than wait to receive the R&D cash rebate after the end of the financial year, a company can seek debt funding against what they have already incurred during the year, bringing cash into the business as soon as possible.

So, the message, amidst all the uncertainty, is that claiming your R&D cash should remain on your business as usual schedule.

It is recommended that businesses speak to their RSM R&D adviser as they are monitoring the ever-changing environment and are able to provide clients with the best current and long-term options.

Anti-fraud and corruption toolkit for business

Amid widespread public concerns over the rapidly changing COVID-19 situation, fraud, corruption and workplace misconduct risk is heightened. There has been an escalation in fraud related to the COVID-19 pandemic, which puts businesses at risk of further loss and reputation issues.

Now is not the time to ignore governance, risk and compliance measures designed to mitigate these risks but for management to be ever-vigilant and take action like conducting an RSM COVID-19 pandemic anti-fraud/ corruption and workplace misconduct review. It was not until these crises are over (like the 2008 global GFC) when the fraud skeletons emerge. Be proactive!

Known COVID-19 fraud and similar scams

The following are some of the current COVID-19 scams which we are monitoring and change daily:

1. **Outright theft or obtaining fraudulent benefits** by employees stealing funds from the business for a perceived motive as part of the fraud triangle, such as from internal control weaknesses within business processes like, accounts payable, accounts receivable, payroll, awarding work to suppliers, etc.
2. **Phishing scams.** Phishing is a fraud method of sending emails or texts claiming to be from reputable or official sources (such as health advice, government, vendor sources) for the purposes of getting the recipient to reveal personal or company confidential information such as passwords, banking details etc. COVID-19 phishing scams can include fake government financial relief for business, and fake business travel and expenses refunds.
3. **Investment scams** claiming the Coronavirus has created opportunities that are too good to be true because they are too good to be true or do not exist!
4. **Counterfeit or non-existent COVID-19 equipment**, such as anyone selling products that claim to prevent, treat, diagnose, or cure COVID-19, or counterfeit products such as sanitizing products and Personal Protective Equipment (PPE), including masks, goggles, full face shields, protective gowns, and gloves.
5. **Fake online shopping sites** requesting unusual payment methods such as upfront payment via money order, EFT, international funds transfer, preloaded card or electronic currency, like Bitcoin.
6. **Unsolicited Coronavirus related emails**, which could be from reputable sources such as a government department, inviting the recipient (such as someone in finance) to click on a link or open an attachment which unbeknown to the employee will infect their computer and compromise the computer network of the business.
7. **False vendors** being added for later fraudulent payments.
8. **Employees working from home** but a considerable amount of the 'work time' is spent on non-employer related activities, resulting in low to no productivity. It is recognised that the majority of employees will work responsibility unsupervised as often output work can be monitored by who is monitoring or investigating concerns!!!
9. **Scams** to organise the early release of superannuation, especially in self-managed super funds (SMSFs) for you to access the money, with getting superannuation funds early illegal, except in very limited circumstances.

There are useful government sites which provide updates on COVID-19 scams with methods changing and emerging daily. In Australia, one such site is currently the 'Coronavirus (COVID-19) scams' on the Australian Competition & Consumer Commission (ACCC) website Scamwatch page. An example of a global site is the information updates from the U.S. Federal Bureau of Investigation (FBI).

IF YOU HAVE ANY QUERIES ON HOW THESE MEASURES WILL IMPACT YOU OR YOUR BUSINESS, PLEASE CONTACT YOUR LOCAL RSM OFFICE OR ADVISER.

Updates will be provided as more announcements are made. For more resources, visit our COVID-19 advisory centre at:

www.rsm.com.au/coronavirus