

# client alert

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### Do you or your business need help?

If you or your business need help with your financial arrangements during this difficult time, we can help you to work out which of the many coronavirus (COVID-19) related payments, concessions and arrangements apply to you, and how you can best make use of them. Contact us today.

**TIP:** Specific rules are in place, and the ATO is on the lookout for contrived arrangements and schemes aimed at cheating eligibility criteria or artificially maximising payment amounts, like restructuring a business, changing the way workers are paid or increasing wages paid in a particular month.

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### Federal Budget night shifts to 6 October 2020

The Australian Government recently announced that this year's Federal Budget will not be handed down until 6 October 2020. In making the announcement, Treasurer Josh Frydenberg said that this postponement is intended to "provide more time for the economic and fiscal impacts of the coronavirus, both in Australia and around the world, to be better understood".

Since 1994, with a few exceptions, Australia's Federal Budget has been handed down by the Treasurer on the second Tuesday in May. Exceptions were made in 1996, when an election and a change of government occurred in March and the Budget was handed down in August; in 2016, when the Budget was handed down on the first Tuesday in May because the government was considering calling a double dissolution election; and most recently in 2019, when a Federal election was called for 18 May and the Budget was presented on 2 April.

Between 1901 and 1993 the Budget was presented in August, on the first Tuesday night of Parliament's spring session.

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### Coronavirus cash flow boost payments explained

As of the second round of economic stimulus in response to the COVID-19 pandemic, the Australian Government has legislated a measure to boost cash flow for employers. However, small to medium employers who intend to claim the "cash flow boost payment" in the hope of receiving an injection of cash should beware. The "payment" is not actually a payment, but a credit that will be offset against the liabilities that appear on the business activity statement (BAS) and any debits in your running balance account (RBA). While this is still likely to support employment by reducing the amount some businesses have to pay to the ATO, anyone hoping to get a cash injection will be sorely disappointed.

Eligible employers will receive an offset equal to three times the amount of tax withheld from ordinary salary and wages as disclosed in the March monthly BAS, or equal to the amount of tax withheld from ordinary salary and wages for the quarter. Both are subject to a minimum of \$10,000 and a maximum of \$50,000. The payment is due on 28 April 2020 and other payments will follow later this year.

These cash flow boost payments are only available to entities that qualified as small or medium entities (ie with turnover less than \$50 million) for the income year most recently assessed. There is also a withholding requirement – the payment will only be made to entities that first notify the ATO that they have a withholding obligation through the lodgment of a BAS or an instalment activity statement (IAS) for the period.

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### Understanding the JobKeeper Payment scheme

The JobKeeper Payment scheme is now open to eligible employers, sole traders and other entities to enable them to pay their eligible employees' salary or wages of at least \$1,500 each (before tax) per fortnight. You can enrol for the JobKeeper Payment through the ATO's Business Portal, in ATO online services using myGov if you are a sole trader, or through a registered tax or BAS agent.

There are special rules that enable sole traders (entities that do not have employees as such) to obtain the JobKeeper Payment.

The JobKeeper Payment scheme commenced on 30 March and will finish on 27 September 2020, operating on a fortnightly basis. Employers and eligible recipients must qualify on a (rolling) fortnightly basis.

### **Decline in turnover**

Businesses (including sole traders and charities) must have suffered a “substantial decline” in turnover due to the COVID-19 pandemic to be entitled to the payment of \$1,500 for each eligible employee.

The decline in turnover test requires you to measure the business’s projected GST turnover and compare it to a “relevant comparison period”. To be eligible, the turnover must have declined by:

- for ACNC-registered charities: 15%;
- for entities with turnover less than \$1 billion: 30%;
- for entities with turnover greater than \$1 billion: 50%.

### **Wage condition**

Critically, it is a condition of entitlement that the business has paid salary and wages of at least the amount of \$1,500 (before tax) to each relevant employee in the fortnight.

**TIP:** Employers and other eligible recipients that enrol by 31 May can claim for the fortnights in April and May if you meet all the requirements for each fortnight. This includes having paid employees by the appropriate dates. For the first two fortnights the ATO will accept that the minimum payment has been paid even if it occurred late, provided it was paid by the end of April.

### **Employee conditions**

An individual must be employed during a JobKeeper fortnight to be eligible for that fortnight (but does not need to be employed for the full fortnight). In addition, they must, as at 1 March 2020, be aged 16 or over, be an employee or a long-term casual employee (12 months of regular and systematic employment) and be an Australia resident for tax purposes.

The 1 March date is important, as it allows employees who were retrenched after that date but then subsequently rehired to be eligible for the JobKeeper Payment. However, if an employee was only engaged after 1 March, they are not eligible.

Eligible employees must have provided a notice to their employer agreeing:

- to be nominated by the employer as an eligible employee of that employer under the JobKeeper scheme;
- that they have not agreed to be nominated by another employer; and
- that (if employed as a casual employee) they do not have permanent employment with another employer.

An eligible employee who is employed by one or more qualifying employers will need to choose one employer that will receive the JobKeeper Payments.

Once an employee has nominated an employer, the employer has received JobKeeper Payments and has paid the employee, the employee cannot nominate a different employer. This includes where the employment relationship ends (although the ex-employee may then be eligible for the separate JobSeeker Payment).

### **Payment**

The government will pay the JobKeeper Payment within 14 days of the end of the calendar month in which the fortnight ends. This means that the first JobKeeper Payment will not be made until (at least) the first week of May.

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## **ATO opens applications for early release of super**

The ATO has released its application form for the early release of superannuation by individuals impacted by COVID-19. From 20 April, an individual can make one application to access up to \$10,000 of their super (tax-free) in the 2019–2020 financial year, and a second application for up to \$10,000 in the 2020–2021 year until 24 September 2020.

**TIP:** The ATO has run a social media campaign asking people to observe the intention of the legislation and only apply to release their super to deal with the adverse economic effects of COVID-19. You should not withdraw your super early and recontribute it to gain a personal tax deduction.

If you are eligible, you should carefully check your super account balances to ensure there are sufficient funds available to claim. If you make an application and the fund has insufficient money to fulfil the application, you will not be able to make a second application for the balance from another fund/account in that financial year or ask for an amount above the \$10,000 cap in the 2020–2021 financial year.

It takes one to two business days for super funds to receive notifications directly from the ATO about their members. The government then expects funds to process the payments and release the amounts to individuals “as soon as possible”.

If your application is rejected by the ATO, you will be notified via your MyGov account in two to three days.

Separate arrangements apply for applications by members of self managed super funds (SMSFs). The ATO will issue a determination to you as the fund member (instead of to the super fund) advising of your eligibility to release an amount. When the SMSF receives the determination from you, the SMSF trustee is then authorised to make the payment.

**Important:** Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.