

Tax treatment of JobKeeper Payments

Broadly, JobKeeper Payments received by an employer are assessable income to the employer.

Likewise, the payments an employer subsequently makes to an employee that are funded (in whole or in part by the JobKeeper Payment) are generally allowable deductions to the employer.

The ATO has recently issued some guidance for employers in receipt of JobKeeper Payments.

For sole traders, they will need to include the payments as business income in their individual tax return.

For partnerships or trusts, JobKeeper payments should be reported as business income in the relevant partnership or trust tax return.

For a company, report JobKeeper payments as income in the company tax return.

For a taxpayer that has repaid (or is in the process of repaying) any of their JobKeeper payments to the ATO, these amounts do **not** need to be included in their tax return.

Editor: Note a business would be refunding JobKeeper payments to the ATO if it had been discovered that the business had incorrectly claimed JobKeeper payments, and had either voluntarily disclosed this to the ATO, or the ATO made this determination as a result of audit activity.

The normal rules for deductibility apply in respect of the amounts a taxpayer pays to their employees, even where those amounts are subsidised by the JobKeeper payment.

That is, if the underlying salary is deductible, then it is still deductible to the employer where it has been subsidised by a JobKeeper payment.

For employees who have received JobKeeper payments, these will be included as salary and wages (or an allowance) in their income statement (or payment summary) as provided by their employer.

Editor: If you have any queries about the JobKeeper Payment scheme, please contact our office.

Simplified home office expense deduction claims due to COVID-19

Given that many Australians continue to work from home due to COVID-19, the ATO has updated its Practical Compliance Guideline which allows taxpayers working from home to claim a rate of 80 cents per hour, by keeping a record of the number of hours they have worked from home, rather than needing to calculate specific running expenses.

The application of the Guideline has been extended so that it now applies from 1 March 2020 until 31 December 2020.

Deferrals of interest due to COVID-19

Many lenders have recently allowed borrowers with investment property loans to defer repayments for a period of time.

While repayments are being deferred, interest (and fees) will usually be added to the loan balance (i.e., the deferred interest will be 'capitalised').

However, it is important to recognise in such situations that, while repayments are not being made during the relevant period, borrowers continue to 'incur' the interest during that time.

Further, interest will continue to be calculated and will accrue on both the unpaid principal sum of the loan and the unpaid (i.e., capitalised) interest. The interest that accrues on the unpaid or capitalised interest is referred to as 'compound interest'.

Importantly, the ATO has previously acknowledged that, if the underlying, or ordinary, interest is deductible, then the compound interest will also be deductible.

Accordingly, interest expenses (including any compound interest) will generally be deductible to the extent the borrowed monies are used for income producing purposes (such as where the borrowed funds are used to purchase a rental property).

However, interest on a loan will not be deductible to the extent to which the borrowed funds are used for private purposes (e.g., to purchase a home, a private boat, or to pay for a holiday).

Editor: Note that, despite the name, "penalty interest" is not always "in the nature of interest" and, in some cases, may not be deductible (e.g., due to the expense being capital in nature).

Tax cuts pass Parliament

The Government announced various tax measures in the 2020 Budget on 6 October 2020, and it was able to secure passage of legislation containing some of the important measures very shortly afterwards, as summarised below.

Tax relief for individuals

The Government brought forward 'Stage two' of their Personal Income Tax Plan by two years, so that, from 1 July 2020:

- the low income tax offset increased from \$445 to \$700;
- the top threshold of the 19% tax bracket increased from \$37,000 to \$45,000; and
- the top threshold of the 32.5% tax bracket increased from \$90,000 to \$120,000.

In addition, in 2020/21, low and middle-income earners will receive a one-off additional benefit of up to \$1,080 from the low and middle income tax offset.

Employees on JobKeeper can satisfy the 'work test'

The Australian Prudential Regulation Authority ('APRA') has confirmed that, where an employer is receiving the JobKeeper wage subsidy for an individual, superannuation funds should consider the individual to be 'gainfully employed' for the purpose of the 'work test', even if that individual has been fully stood down and is not actually performing work.

As such, superannuation funds can assume that all members in receipt of the JobKeeper subsidy satisfy the 'work test' when determining whether they can make **voluntary superannuation contributions**.

JobMaker Hiring Credit passed

The government has passed legislation to establish the JobMaker Hiring Credit, which is part of the government's economic response to the COVID-19 pandemic.

The JobMaker Hiring Credit is specifically designed to encourage businesses to take on additional young employees and increase employment.

It does this by providing employers with a fixed amount of \$200 per week for an eligible employee aged 16 to 29 years and \$100 per week for an eligible employee aged 30 to 35 years, paid quarterly in arrears by the ATO.

To be eligible, the employee must have been receiving JobSeeker Payment, Youth Allowance (Other) or Parenting Payment for at least one of the previous three months, assessed on the date of employment. Employees also need to have worked for a minimum of 20 hours per week of paid work to be eligible, averaged over a quarter, and can only be eligible with one employer at a time.

The hiring credit is not available to an employer who does not increase their headcount and payroll.

Employers and employees will be prohibited from entering into contrived schemes in order to gain access to or increase the amount payable.

Existing rights and safeguards for employees under the Fair Work Act will continue to apply, including protection from unfair dismissal and the full range of general protections.

Employers need to apply recent tax cuts as soon as possible

The ATO has now updated the tax withholding schedules to reflect the 2020/21 income year personal tax cuts — the updated schedules are available at ato.gov.au/taxtables.

The ATO has said that employers now need to make adjustments in their payroll processes and systems in order for the tax cuts to be reflected in employees' take-home pay.

Employers must make sure they are withholding the correct amount from salary or wages paid to employees for any pay runs processed in their system from **no later than 16 November** onwards.

Employees should be aware that any withholding on the old scales will be taken into account in their tax return.