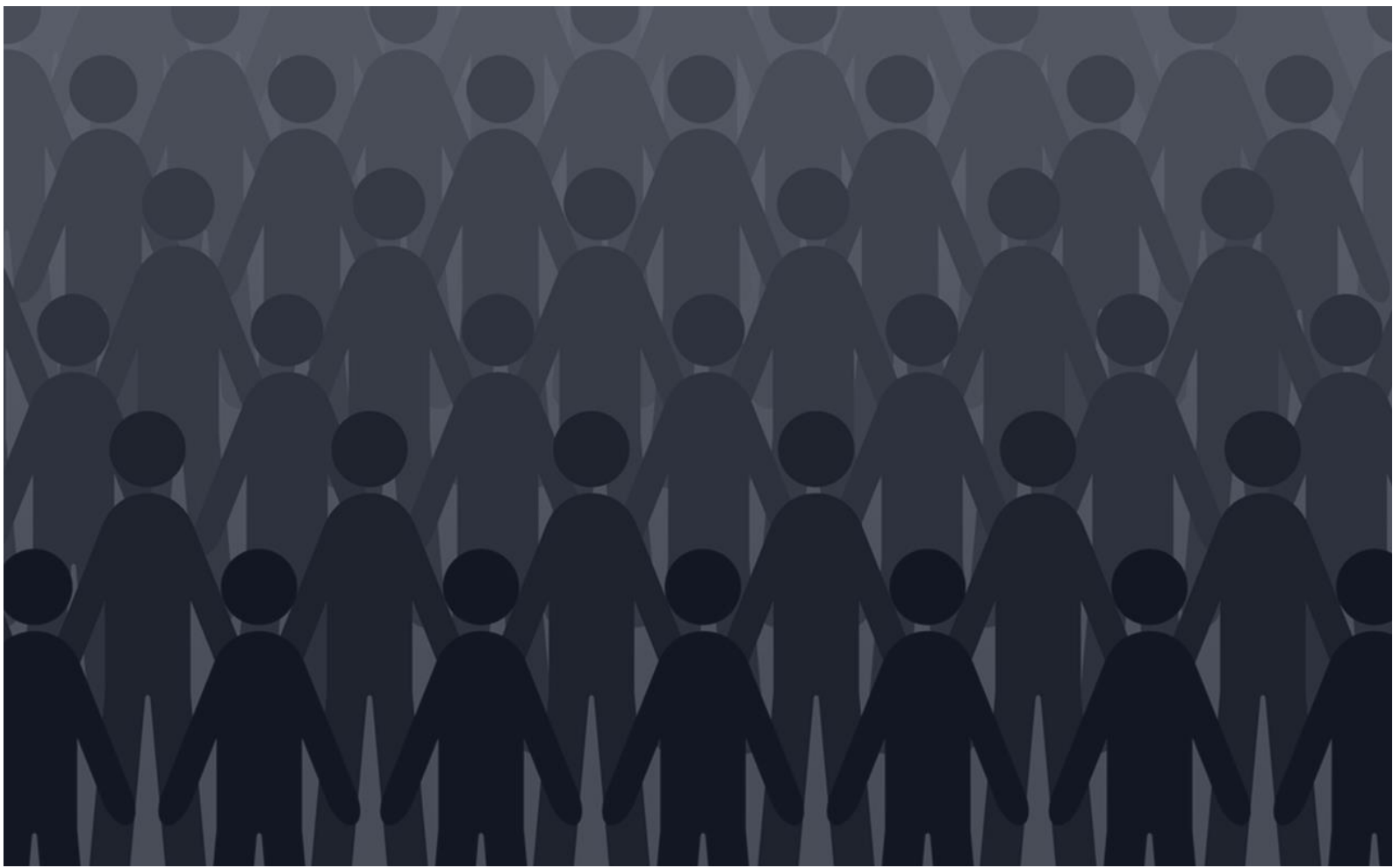


The \$1,500 JobKeeper Subsidy Webinar

20 April 2020



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Slide 1

The \$1,500 JobKeeper Subsidy Webinar



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Director | Knowledge Shop



Slide 2

Before we start

- Don't make decisions based on the webinar
- Get advice for your specific scenario
- Be careful of employment law issues
- Talk to the Power Tynan team
- **Contact your Power Tynan Adviser**
 - Phone 07 4688 8400
 - Email info@powertynan.com.au



What's the objective

- Get the cash,
- Get it as quickly as possible, and
- Get it right




How it works

- Scheme commences 30 March 2020 and concludes 27 September 2020
- First payments in the first week of May 2020
- \$1,500 per fortnight for each qualifying employee or business owner
- Initial eligibility tests
- Ongoing tests and reporting to the ATO



Key considerations


Employer eligibility	Employee eligibility
Reporting & payment mechanics	Other entities & contractors



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Employer eligibility

- Entity carried on a business in Australia on 1 March 2020, or
- Entity was a non-profit body that pursued its objectives principally in Australia on 1 March 2020



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Employer eligibility

- Entities must show a sufficient fall in turnover
 - One off test, but monthly turnover reporting to ATO
- Threshold for turnover reduction depends on situation
 - Businesses and non-profits with <\$1b in annual revenue need to be able to prove a 30% reduction in revenue over test period
 - 50% for businesses over \$1b in annual revenue
 - 15% threshold for some charities
- Grouping rules apply for this purpose



Ineligible employer classes

- Federal, State & Local government
- Government agencies
- Wholly owned corporation of Government bodies
- Entities subject to the Major Bank Levy
- Entities in liquidation or bankruptcy



Test period – key concepts

- Turnover test period
 - Any month between March 2020 and September 2020; or
 - Either quarter commencing 1 April or 1 July 2020
- Compare with corresponding period in 2019
- To qualify for the first fortnight, need to show required fall in turnover for any of the following:
 - March 2020 compared to March 2019
 - April 2020 compared to April 2019
 - June 2020 quarter compared to June 2019 quarter
- Can use monthly or quarterly test, regardless of GST periods



Test period – key concepts

- Turnover reduction based on Current GST Turnover and Projected GST Turnover
 - Current turnover is basically GST-exclusive sales, less input taxed supplies
 - Projected turnover ignores sales of capital assets
 - ATO confirms that cash basis can be used if activity statements are done on a cash basis

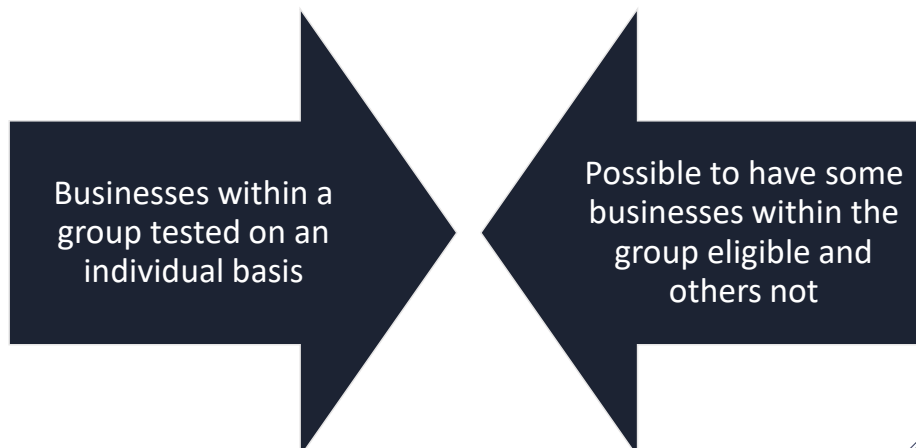


Projections

- Projected GST turnover needs to be:
 - Based on facts
 - All known information allowed for
 - Detailed documentation and records
- Factors to consider
 - How long a business is closed or there are restrictions on trading
 - Recent patterns that are expected to continue
 - Revised business plans
- Treasury suggests some tolerance if actual turnover reduction is less than projection, but still need to take care



Consolidated and other groups



Charities and non-profits

- Charities = registered with the Australian Charities and Not for Profits Commission (ACNC)
- Revenue reduction test only 15%
 - Does not include universities or schools as defined under the GST Act
- Not for profits must be pursuing their objectives principally in Australia
- Some modified GST Turnover test rules apply to include donations received that are likely to be tax deductible to the donor and also value of non monetary donations – applies to DGRs and ACNC charities



If basic test is failed

- Alternative decline in turnover test might help
 - ATO has power to come up with alternative tests, these haven't been released yet
 - Could be relevant when a business doesn't have a comparable period or odd turnover patterns
 - Likely to apply to drought affected businesses and new businesses
 - Appears that applicants will need to provide certain information to ATO



Service entities / payroll entities

- Are they carrying on a business under general principles?
- Can they satisfy the turnover reduction test?
 - Turnover of the trading entity is not taken into account
 - Integrity rules
 - ATO alternative test?
 - Rules for business owners won't help if they are an employee of the service entity



Can you register during the life of the scheme?

- Yes, you will be able to register during the life of the scheme
- However your claim will only commence from the time you register – tested against fortnightly reporting periods
- No backdating of your claim, other than for April
- Uncertainty about eligibility causes a problem



Employees who are eligible

- One in, all in approach
 - If employer wants to participate, all eligible employees need to be included
- Do not assume all employees are eligible
- You need to test on an employee basis
- No limit to the number of employees who could be eligible
- Check whether business owners are employees



Employees who are not eligible

Employees under 16 years of age at 1 March 2020	X
Casuals with less than 12 months regular service or were a permanent employee of another employer	X
Employees on non-prescribed visas	X
Foreign employees (other than NZs on sub class 444 visa)	X
Employee nominated for JobKeeper by another employer	X
Paid less than \$1,500 per fortnight gross	X
Were not employed by you at 1 March 2020	X



Impact on employees on leave

- Assuming the employee meets the general eligibility criteria, they are **not** precluded because they are:
 - On personal leave
 - On workers compensation and working a reduced load/hours – but not eligible if not working
 - On parental leave from their employer – but not if they are being paid Parental Leave by Services Australia



What about contractors?

- Genuine contractors are not employees
- They may be eligible to claim in their own right as a sole trader
- Contractors trading through an entity might be able to claim through their entity
- Do not include them by error
- Employees on fixed term contracts still employees until contract ends



Requirement for the employee to be paid

Employees must be paid at least \$1,500 per fortnight before tax

If employee paid less than \$1,500 per fortnight – there is no claim

This may result in an employee being paid more than otherwise might be the case

Employer must pay in advance of claim



Flexibility in rules

- Can make catch-up payments for the first two fortnights by the end of April
 - Make sure employees have received at least \$3,000 by the end of April
- Rules take other pay periods into account
 - For example, monthly pay periods, apportion on a reasonable basis
- ATO has exercise discretion for certain mistakes



What if an employee was stood down after 1 March?

- They can still be eligible for payment under JobKeeper providing they are paid a minimum \$1,500 per fortnight
- Employer must pay \$1,500 per fortnight for periods commencing 30 March
- A back payment to 30 March can be made during the April month
- No requirement for payment for period between stand down and 30 March



What if an employee was terminated after 1 March due to CV

- The employer can re-hire them
- Assuming they meet the other employee eligibility tests and are paid a minimum \$1,500 per fortnight from 30 March the employer can nominate them for JobKeeper payment



Interaction with SG

- Where an employee is not working but receiving the \$1,500 JobKeeper payment – SG does not have to be paid
- Where employee is working and would normally receive \$1,500 per fortnight or more – SG payable
- Where the employee is working and would normally be paid less than \$1,500 per fortnight but receiving the additional top up payment to \$1,500 – SG payable on the amount attributed to work. Employer has the option to pay SG on all



Non-employee business owners

- Designed to extend scheme to persons actively engaged in a business through a sole trader, partnership, company or trust – but not employed
- Need to show that business was carried on at 1 March 2020 and turnover reduction test is satisfied
- Not eligible if they are the permanent employee of an employer (OK to be a casual employee)



Non-employee business owners

- Must be actively engaged in the business operations, rules cannot apply to non-profits
- Can apply to a sole trader, partner, director, shareholder or adult beneficiary
- Can only nominate one individual per entity under these rules, even if they are unrelated
- Rules don't apply very well for partnerships of trusts or unit trusts with units held by discretionary trusts



Registration process

- Online registration (not just expression of interest) available through ATO
 - From 20 April
 - Complete by 26 April for May payment
- Determine employee eligibility
- Provide all employees with a JobKeeper Employee Nomination Notice for them to complete & return to employer by end of April
 - No need to lodge, but hold on file
- Apply for JobKeeper payment on ATO Business Portal
 - From 4 May 2020
 - Need to confirm eligible employees
- Eligible employer must advise eligible employees in writing that they have nominated them under JobKeeper
 - No later than 7 days after application



Ongoing eligible employee reporting

- Eligible employee reporting can be completed:
 - Selecting employees from prefilled STP payment report
 - Manually entering details online with ATO
- Reconfirmation each month that eligible employees have not changed
- Can be completed online
- Monthly *JobKeeper Declaration Report* will be medium to advise on any change in eligible employees



Payment mechanics

Paid by the ATO
within 14 days of
month end

Will commence in
first week of May
2020

Eligible payroll
periods every 14
days, commencing
30 March

Monthly employer
reporting required
to trigger payment
- Single Touch Payroll



Transitional payment rule for April

- Provision for Commissioner to make an advance payment in May, in respect of the month of April
- Advance payment made where eligibility has not been determined by the Commissioner
- Where an advance payment is made there is ability to claw back or vary payment based on determined facts



Monthly reporting

- Ongoing reporting requirement for employers – JobKeeper Declaration Report
- **Every month** the employer must report
 - GST turnover for the reporting month
 - Projected GST turnover for the following month
- This does not affect turnover test eligibility but it does provide updated information to test the reasonableness of projected turnover at the time of nomination
- This will be a real time source of data for audit activity



Get it wrong and the ATO is likely to come calling

- Give me the money back!!
- Joint & several liability
 - S. 2.29 – 2.36 (Rules)
- Penalty provisions



Integrity provisions

- Positive obligations
 - Employer must certify information
 - Obligation to assess employee eligibility
 - Obligation to advise ATO of change in circumstances
- Audit & compliance
 - Audit reviews
 - Cross match to Services Australia
 - Data matching with other agencies to identify false claims or ineligible employees

Penalty provisions

- Administrative penalties - up to 75%
- Failure to comply with tax law – up to 12 month imprisonment
- Breach of the Criminal Code, obtaining financial advantage by deception – up to 10 years imprisonment



Record keeping requirements

- Prepayment requirements
 - Must be kept in English or readily convertible to English
 - Must substantiate all information provided
 - ATO to determine format
- Post-payment requirements
 - Retain all records including prepayment records for a 5 year period
- Where prescribed records not maintained the entity can be deemed ineligible



Who to contact



Trusted Advice.

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