

# TAX AND COVID-19

## FREQUENTLY ASKED QUESTIONS

### SUMMARY

- CPA Australia has prepared frequently asked questions (FAQs) for accounting and tax professionals related to the tax issues arising from COVID-19 and the Australian Government's stimulus measures
- The FAQs are collated from member enquiries across public practice, not-for-profits and corporates as well as issues identified by the ATO National Tax Liaison Group, the ATO Tax Practitioner Stewardship Group and the accounting and tax professions.
- CPA Australia continues to engage with the Government, Treasury, ATO and Tax Practitioners Board and is working together with fellow professional associations.
- The FAQs cover: JOBKEEPER, CASH FLOW BOOST and OTHER QUESTIONS and we will regularly update this information to reflect the most recent guidance.
- Additional resources are available at:
  - > [CPA Australia COVID-19 site](#) including [summary of the Australian government's stimulus measures](#) and [summary of Australian states and territory governments' economic responses to COVID-19](#)
  - > [Treasury COVID-19 site](#)
  - > [ATO COVID-19 site](#)
  - > [Coronavirus Economic Response Package Omnibus Act 2020](#)
  - > [Boosting Cash Flow for Employers \(Coronavirus Economic Response Package\) Act 2020](#) (the Cash Flow Boost Act)
  - > [Coronavirus Economic Response Package Omnibus \(Measures No. 2\) Act 2020](#)
  - > [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (the JobKeeper Act)
  - > [Coronavirus Economic Response Package \(Payments and Benefits\) Rules 2020](#) (the Rules).

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## JOBKEEPER

The detail of the JobKeeper payments have been delegated by Parliament to the Treasurer by legislative instrument. The law also allows the sub-delegation of powers to the Commissioner of Taxation. The requirements and parameters may therefore be changed over the course of time through new or amended legislative instruments.

Question	Answer
How will the decline in turnover be calculated?	<p>An entity satisfies the decline in turnover test at a time (the test time) if:</p> <p>(a) the entity's projected GST turnover for a turnover test period in which the test time occurs falls short of the entity's current GST turnover for a relevant comparison period (the comparison turnover); and</p> <p>(b) the shortfall, expressed as a percentage of the comparison turnover, equals or exceeds the specified percentage for the entity.</p> <p>The ATO has now <a href="#">published</a> information on the basic decline in turnover test which requires the use of actual turnover for March 2020, or projected turnover for the month of April or the June quarter.</p>
How will turnover be calculated?	<p>Turnover will be defined according to the current calculation for GST purposes and is reported on Business Activity Statements. It includes all taxable supplies and all GST free supplies but not input taxed supplies.</p> <p><a href="#">Typically</a>, current turnover will equal GST exclusive sales less input taxed supplies.</p> <p>Modifications to GST turnover are detailed in subsection 8-8 of the <i>Rules</i>.</p> <p>Updated 19 April 2020</p>
When is the turnover test period?	<p>The turnover test period must be:</p> <ul style="list-style-type: none"> <li>a calendar month that ends after 30 March 2020 and before 1 October 2020; or</li> <li>a quarter that starts on 1 April 2020 or 1 July 2020; and</li> </ul> <p>the relevant comparison period must be the period in 2019 that corresponds to the turnover test period.</p> <p>You can calculate decline in turnover on a monthly or quarterly basis.</p> <p>Updated 19 April 2020</p>
Do I use cash or accruals to calculate my decline in turnover?	<p>The accruals basis of accounting can be used and if activity statements are prepared on a cash basis, the ATO will allow you to calculate both the current and projected GST turnovers on a cash basis.</p> <p>Added 19 April 2020</p>
What if my circumstances are out of the ordinary?	<p>The Commissioner of Taxation has the discretion to set out <a href="#">alternative tests</a> that can establish eligibility when turnover periods are not appropriately comparable (for example, if your business has been in operation less than a year).</p> <p>This will be done by legislative instrument.</p> <p>Updated 19 April 2020</p>

Question	Answer
<p>What if I don't quite meet the decline in turnover threshold right now?</p>	<p>You can apply for the payment if you reasonably expect that your turnover will fall by the required threshold amount relative to your turnover in a corresponding period a year earlier. The ATO will provide guidance about self-assessment of actual and anticipated falls in turnover.</p> <p>There will be some tolerance where employers, in good faith, estimate a fall in turnover within the threshold but actually experience a slightly smaller fall.</p> <p>If a business does not meet the turnover test at the start of the JobKeeper scheme on 30 March 2020, the business can start receiving the JobKeeper Payment at a later time once the turnover test has been met. In this case, the JobKeeper Payment is not backdated to the commencement of the scheme. Businesses can receive JobKeeper Payments up to 27 September 2020.</p>
<p>What is the period for JobKeeper payments?</p>	<p>The <i>Rules</i> specify that the JobKeeper scheme starts on 30 March 2020 and ends on 27 September 2020.</p> <p>The <i>Act</i> provides for the <i>Rules</i> to apply to a prescribed period between 1 March 2020 and 31 December 2020.</p>
<p>Once an employer has met the turnover requirements in a period, are they eligible for the 6 months (or remaining term of the scheme) or do they need to re-assess their turnover periodically?</p>	<p>An entity satisfies the decline in turnover test at a time (the test time) if:</p> <ul style="list-style-type: none"> <li>the entity's projected GST turnover for a turnover test period in which the test time occurs falls short of the entity's current GST turnover for a relevant comparison period (the comparison turnover); and</li> <li>the shortfall, expressed as a percentage of the comparison turnover, equals or exceeds the specified percentage for the entity.</li> </ul> <p>Once an employer or self-employed entity qualifies for JobKeeper payments because turnover has declined by the relevant amount, they remain eligible and do not need to keep testing turnover in following months. However, there will be ongoing monthly reporting requirements.</p> <p><small>Updated 19 April 2020</small></p>
<p>Do I need to pay all of my eligible employees to get JobKeeper or can I pick and choose?</p>	<p>You need to pay all eligible employees.</p> <p>Once an employer decides to participate in the JobKeeper scheme and their eligible employees have agreed to be nominated by the employer, the employer must ensure that all of these eligible employees are covered by their participation in the scheme. This includes all eligible employees who are undertaking work for the employer or have been stood down. The employer cannot select which eligible employees will participate in the scheme.</p> <p><small>Added 19 April 2020</small></p>
<p>Does superannuation need to be paid on JobKeeper amounts?</p>	<p>You must pay a minimum of \$1500 per fortnight to your eligible employees, withholding income tax as appropriate. The \$1500 per fortnight per employee is a before tax amount. Where an employee is paid more than \$1500 per fortnight, the employer's superannuation obligations will not change.</p> <p>Where an employee is having their wages topped up to \$1500 per fortnight by the JobKeeper Payment, it will be up to the employer if they want to pay superannuation on any additional wages paid by the JobKeeper Payment.</p>

Question	Answer
<p>When will on line application be available?</p>	<p><a href="#">Enrolments</a> have opened and tax agents can apply for clients through Online services for agents.</p> <p>Applications for claims for the month of April open on 4 May.</p> <p>To ensure you receive your JobKeeper payments as early possible, you should enrol by the end of April. However, enrolments are open till the end of May if you need more time.</p> <p>Ensure that you continue make payments to eligible employees on-time for each JobKeeper fortnight.</p> <p>Updated 22 April 2020</p>
<p>How will payments and eligible employees be reported to the ATO?</p> <p>Some of my clients are not reporting through single touch payroll (STP). Are they still eligible?</p>	<p>Payments should be made via payroll systems.</p> <p>Each month, details of each client's eligible employees needs to be maintained.</p> <p>This can be done:</p> <ul style="list-style-type: none"> <li>• Directly through payroll software which will update the ATO through the Single Touch Payroll (STP) enabled solution.</li> <li>• By creating a client report using the JobKeeper Payment Guide file populated with client's employee details and provided to the ATO through the ATO's secure bulk data exchange.</li> <li>• Logging in to Online services for agents and select employee details that are prefilled from clients' STP pay reports (available from 4 May 2020 onwards), or</li> <li>• Logging in to Online services for agents and manually entering client's employee details online if they do not use an STP enabled solution (available from 4 May 2020 onwards).</li> </ul> <p>Clients can also undertake this process themselves via the Business Portal.</p> <p>Updated 19 April 2020</p>
<p>Are JobKeeper payments assessable?</p>	<p>Yes. All JobKeeper payments are assessable income of the business that is eligible to receive the payments. The normal rules for deductibility apply in respect of the amounts your business pays to its employees where those amounts are subsidised by the JobKeeper payment.</p> <p>The JobKeeper payment is not subject to GST.</p> <p>Updated 19 April 2020</p>
<p>What reporting and record-keeping do I need to do?</p>	<p>The ATO will need to receive monthly information on payments, eligible employees and turnover.</p> <p>Sections 15 and 16 of the <i>JobKeeper Act</i> set out pre- and post-payment record keeping requirements which are in accordance with the requirements in the <i>Taxation Administration Act 1953</i>.</p> <p>The entity must retain the records for five years after the payment was paid.</p> <p>Added 19 April 2020</p>
<p>My business uses contractors rather than employees. Can I</p>	<p>No.</p>

Question	Answer
pay them and receive JobKeeper?	However, contractors, such as sole traders, may be eligible for JobKeeper in their own right.
Some of my employees have multiple jobs. Will I receive JobKeeper payments for them?	<p>If your employees have multiple employers, they can usually choose which employer they want to nominate through. They cannot be nominated for the JobKeeper payment by more than one employer.</p> <p>However, if your employees are long-term casuals and have other permanent employment, they must choose the permanent employer and cannot nominate you.</p> <p>Updated 22 April 2020</p>
My clients operate as sole traders or through trusts, partnerships and companies, and they don't pay themselves wages. Are they eligible for JobKeeper?	<p>Presuming the other eligibility conditions are satisfied:</p> <ul style="list-style-type: none"> <li>• sole traders will be eligible as long as they do not receive JobKeeper from another source</li> <li>• a single individual beneficiary of a trust can be nominated to receive JobKeeper payments</li> <li>• a single partner in a partnership can be nominated</li> <li>• a single director or shareholder of a company can be nominated.</li> </ul> <p>These businesses will also receive JobKeeper payments for their eligible employees.</p> <p>The ATO has produced a <a href="#">guide</a> which sets out the process for sole traders.</p> <p>We note the limitations of this approach in ensuring equitable access to JobKeeper within trust, partnership and company structures. We will recommend to Government that the 'business participant' test be extended to all actively engaged persons in trusts, partnerships and companies.</p> <p>Updated 19 April 2020</p>
I am a sole trader and am also employed part-time on a wage. Can I receive JobKeeper as a sole trader, rather than through my employer?	<p>No. An eligible business participant cannot be an employee (other than a casual employee) of another entity.</p> <p>If the sole trader is both a long-term casual employee of another business and also an eligible sole trader, they can choose to either let their employer claim the JobKeeper payments on their behalf, or they can claim as a sole trader, but not both.</p> <p>Corrected 19 April 2020</p>
I am a regular casual who is also entitled to JobSeeker and other Services Australia benefits. Receiving JobKeeper payments of \$1500 per fortnight will remove access to some benefits. Can I elect not to receive JobKeeper payments?	<p>An individual must agree to be nominated by the entity as an eligible employee of the entity for the purposes of the JobKeeper scheme (see section 9-3(a)(ii) of the <i>Rules</i>).</p> <p>If you do not provide a notice in the approved form to your employer, then they cannot claim JobKeeper for you.</p>
I have heard that some employers are asking their	Such arrangements may be breaches of the <i>Fair Work Act 2009</i> including sections 323 (method and frequency of payment), 325 (unreasonable

Question	Answer
<p>eligible employees to give them a portion of the JobKeeper amount. Is this ok?</p>	<p>requirements to spend or pay amount), 340-342 (adverse action), 343 (coercion) and 344 (undue influence and pressure), as well as the section 789GD (wage condition) and section 789GDA (minimum payment guarantee) amendments made by the <i>Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020</i>.</p> <p>Added 22 April 2020</p>

## CASH FLOW BOOST

Question	Answer
What amounts are used to calculate the Cash Flow Boost payment?	Amounts withheld under Subdivisions 12-B, 12-C or 12D in Schedule 1 to the <i>Taxation Administration Act 1953</i> are used to calculate the payment (see subsection 4-4 of the <i>Act</i> ). This includes amounts withheld from directors' fees and under voluntary withholding arrangements with contractors.
What is the time period for lodging the relevant BAS?	The law allows a BAS to be lodged by eligible entities up to 2 years after the due date (see section 11-3 of the <i>Act</i> ).
I am not up to date with my BAS lodgments. Am I still eligible?	As long as you have lodged a BAS for a period starting on or after 1 July 2018 that reports taxable supplies (subsection 5-6 of the <i>Act</i> ), have lodged your 2018-19 income tax return or will lodge the 2018-19 return by the deferred due date (subsection 5-5 of the <i>Act</i> ), then you are eligible. This is subject to satisfying the other eligibility conditions.
Will a cash refund be paid?	<p>Cash Flow Boost amounts will be applied as a credit on the Activity Statement account and applied against total BAS liabilities for the period. Where a credit exceeds other tax liabilities, the <a href="#">ATO</a> will generally provide a refund of the excess amount.</p> <p>The ATO has now <a href="#">confirmed</a> if there is credit remaining, any excess credit from the activity statement that received the cash flow boost amount will be refunded, rather than offset against any other tax debts. However, any excess may still be applied against any outstanding debts with other Australian Government agencies.</p> <p>Updated 19 April 2020</p>
My clients operate as sole traders or through trusts, partnerships and companies, and they don't pay themselves wages or directors' fees. They don't have any employees. Are they eligible for Cash Flow Boost?	<p>No. Eligibility is restricted to entities withholding under Subdivisions 12-B, 12-C or 12D in Schedule 1 to the <i>Taxation Administration Act 1953</i>.</p> <p>We have highlighted the disparities in outcomes for closely-held businesses due solely to differences in business structures and payments. We have submitted that the Government consider additional support for business operators ineligible for the Cash Flow Boost.</p>
What about withholding on attributed personal services income amounts?	<p>Amounts withheld for attributed personal services income (under Division 13) are not within scope of the Cash Flow Boost.</p> <p>We have written to the ATO to seek clarification on how amounts withheld under Division 13 will be administered to prevent over-payment.</p>
My business uses contractors rather than employees. We don't have voluntary withholding agreements in place. Will my business be eligible?	<p>No.</p> <p>Only businesses reporting withholding under the specified Subdivisions (Subdivisions 12-B, 12-C or 12D in Schedule 1 to the <i>Taxation Administration Act 1953</i>) will be eligible provided they meet other eligibility criteria.</p>

Question	Answer
My business started on 1 January 2020 and I report quarterly. Will I be eligible?	No. You will not have a 2018-19 income tax return, nor will you be able to rely on your March activity statement as the relevant tax period ends on 31 March 2020, which is after the 12 March 2020 cut-off (see subsection 5-6 of the Act).
I am reviewing my client's business operations in light of COVID-19 to ensure continued viability, resulting in recommended changes to business structure and payments. Will this attract the attention of the ATO?	<p>This is an area where caution must be exercised. For example the ATO and TPB have <a href="#">warned</a> that <i>'it is not acceptable to backdate or artificially change a business structure or employment arrangements, including changing the characterisation of payments, in order to obtain a benefit or payment that would not otherwise have been paid'</i>.</p> <p>The ATO has now released <a href="#">information</a> in relation to schemes and the cash flow boost including <a href="#">schemes to artificially create or inflate entitlements and fraudulent arrangements</a>. The guidance emphasises the artificial nature of the arrangement and mentions re-characterisation of payments to salary and wages to maximise the cash flow boost. We suggest that any changes to wage and payment structures has a dominant commercial purpose and that any decisions are well-substantiated with records available for the ATO to review. You may find that claims where there is a change in reporting patterns are flagged by the ATO for further enquiry.</p> <p>Updated 22 April 2020</p>
My company will be reporting withholding for the first time in March 2020 due to the changes in the deductibility of director fee payments. Will I get the Cash Flow Boost?	<p>We have brought this issue to the attention of the ATO and are seeking information on the ATO's approach to investigating changes to withholding patterns.</p> <p>Subject to other eligibility conditions and that it is not considered a scheme by the Commissioner, the company should receive the Cash Flow Boost.</p>

## OTHER QUESTIONS

Question	Answer
I am a registered tax agent and struggling to meet my 85% on-time lodgment requirement. Will this affect my concessional due date?	We have raised this matter with the ATO who have stated they will issue information shortly.
I wish to vary my PAYG instalments due to the effects of COVID-19 on my income. Will I be penalised if I have a tax liability at the end of the year?	<p>No. If you choose to vary your PAYG instalment amounts due to the effects of COVID-19, we will not apply penalties for excessive variation or charge interest on these instalments. However, if your instalments throughout the year are not sufficient to cover your liability you will have an amount to pay following lodgment of your tax return.</p> <p>To reduce the potential effect of large final tax liability, you are able to make multiple variations throughout the year as your situation changes.</p> <p>Updated 22 April 2020</p>
We're not sure we can make the Superannuation Guarantee amnesty due date because of COVID-19 priorities. Can we get an extension?	<p>The Commissioner is unable to extend the end date of the legislated Superannuation Guarantee Amnesty.</p> <p>The Joint Bodies have made a submission to Government requesting an extension of the Amnesty end date to 30 June 2022.</p>
COVID-19 has affected Division 7A obligations. Will there be any support?	<p>The Joint Bodies have made a submission to Government requesting a temporary changes to the legislated benchmark interest rate (section 109N(2) of the <i>Income Tax Assessment Act 1936</i>) and minimum loan repayment requirements (section 109E of the <i>ITAA 1936</i>).</p> <p>The ATO is also <a href="#">prioritising</a> developing COVID-19 guidance on compliance with Division 7A obligations to make minimum yearly repayments.</p>
Will the ATO be giving any deferrals?	<p>Lodgment and payment deferrals will be automatically applied to the following obligations that are due on 15 May 2020:</p> <ul style="list-style-type: none"> <li>• Company 2018-19 income tax returns will now be due by 5 June 2020</li> <li>• SMSF 2018-19 annual returns will now be due by 30 June 2020.</li> </ul> <p>2018-19 income tax returns for individuals and trusts can be lodged by the 5 June concessional due date, provided your clients pay any liability by this date.</p> <p>SMSF annual returns can be lodged by the 30 June concessional due date.</p> <p>The lodgment due date for the annual 2020 FBT return for clients that are paper lodgers will be automatically deferred to 25 June 2020. The payment due date for all annual 2020 FBT returns will also be deferred to 25 June 2020; giving all lodgers further time to pay.</p> <p>Added 22 April 2020</p>