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Practice Update

September 2020

Superannuation guarantee rate increase update

Recently, arguments both for and against increasing the rate of compulsory superannuation guarantee ('SG') have continued to be tossed around!

The SG is the compulsory amount of superannuation an employer must pay into an eligible employee's chosen super fund.

The rate of SG has been frozen at **9.5%** of an employee's ordinary wages since July 2014, but from 1 July 2021 it is due to incrementally increase (by 0.5% each financial year) until it ultimately reaches **12%** in **July 2025**.

As a result, the superannuation guarantee rate is currently set to increase to **10%** from **1 July 2021**.

Superannuation guarantee amnesty ends 7 September 2020

Speaking of the superannuation guarantee, time is rapidly running out for employers to apply for the SG amnesty and catch up on past unpaid super without incurring a penalty.

The ATO encourages employers to apply for the amnesty and make payments as early as they can.

Importantly, eligible amnesty amounts paid **by 7 September 2020** are **tax deductible!**

The ATO must receive amnesty applications by **11:59 pm** (local time) on **7 September 2020**.

Broadly, to be eligible for the amnesty:

- the unpaid super must be for a quarter between 1 July 1992 and 31 March 2018;
- the shortfall cannot have already been disclosed to the ATO; and
- the ATO cannot already be examining the shortfall.

If an employer cannot pay in full, the ATO will work with them to set up a flexible payment plan.

Superannuation guarantee payments and PRNs

Applicants will need their payment reference number ('PRN') to make SG amnesty payments.

The ATO has been sending employers their PRN within 14 business days of receiving their application, however, if an amnesty application has **not** been lodged by mid-August, they can get their PRN:

- from a super guarantee charge related statement issued for the same Australian Business Number; or
- by phoning the ATO on 1800 815 886 between 8.00am and 6.00pm from Monday to Friday.

JobKeeper 2.0 - tweaks to the 'Decline in Turnover' Tests

On 21 July 2020, the Government announced that the JobKeeper Payment ('JKP') would be extended until **28 March 2021** (i.e., for a further six months beyond its original end date of 27 September 2020).

As a result, JKPs will now be made over two separate extension periods, being:

- ❑ **Extension period 1** – which covers the seven new JobKeeper fortnights that commence on **28 September 2020** and end on **3 January 2021**; and
- ❑ **Extension period 2** – which covers the six new JobKeeper fortnights that commence on **4 January 2021** and end on **28 March 2021**.

Furthermore, on 7 August 2020, the Government announced adjustments to JobKeeper 2.0 to expand the eligibility criteria for JKP, primarily in the wake of the tougher COVID-19 restrictions recently imposed in Victoria.

These adjustments will apply nationwide, and the crucial amendments include adjustments to the proposed new 'Decline in Turnover' tests applicable from 28 September 2020.

More specifically, to qualify for the JKP in the two new extension periods (outlined above), businesses will now only have to demonstrate that their actual GST turnovers have decreased (in accordance with the applicable rates) in the previous quarter.

For these purposes, the applicable rate of decline in turnover required to qualify for the JKP is determined in accordance with the existing rules (e.g., **30%** for entities with an aggregated turnover of \$1 billion or less).

Specifically, to be eligible for the JKP **Extension Period 1** (i.e., from 28 September 2020 to 3 January 2021), businesses only need to demonstrate an applicable decline in turnover in the **September 2020 quarter**.

This differs from the previously announced JobKeeper 2.0, where they would have been required to show that they had suffered an applicable decline in turnover in *both* the June and September 2020 quarters.

To be eligible for the JKP **Extension Period 2** (i.e., from 4 January 2021 to 28 March 2021) businesses only need to demonstrate an applicable decline in turnover in the **December 2020 quarter**.

Whereas under the previously announced JobKeeper 2.0, they would have been required to show that they had suffered an applicable decline in turnover in *each of* the June, September and December 2020 quarters.

Importantly, the dual payment rate system originally proposed in JobKeeper 2.0 will remain, with the full rate of payment decreasing from **\$1,500 to \$1,200 per fortnight** from 28 September 2020 and then to **\$1,000 per fortnight** from 4 January 2021.

The proposed reduced rates (being **\$750** from 28 September 2020 and **\$650** from 4 January 2021) will also remain for employees and business participants who worked fewer than 20 hours per week in the relevant period.

Expanded eligible employee definition for JobKeeper

Additional recently implemented JobKeeper changes mean **more employees will qualify** for JobKeeper payments from **3 August 2020**.

This is primarily because:

- ❑ the **eligible employee test** has been extended from **3 August 2020** to include eligible employees who were employed on **1 July 2020** (in addition to the original 1 March 2020 employment date) who are not currently nominated for the JKP by another entity; and
- ❑ from the fortnights commencing on 3 August 2020 and 17 August 2020 (i.e., JobKeeper fortnights 10 and 11) employers will have had until **31 August 2020** to meet the '**wage condition**' for all new eligible employees included in the JobKeeper scheme under the 1 July eligibility test.

Importantly, as a result of these recent tweaks to the JobKeeper scheme, participating employers should have provided any new eligible employees with an employee nomination form.

The onus is on employers to ensure all of their employees now eligible for JKPs as a result of the new 1 July test are given the opportunity to be included.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.