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JobKeeper: A proposal for clawing back unnecessary spending

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Introduction

JobKeeper is the centerpiece of the Australian Government's response to the COVID-19 pandemic. Its purpose is to protect workers by paying a substantial part of the wage of workers employed by businesses that have experienced a downturn in their circumstances due to the impact of the pandemic. By introducing JobKeeper the Government has effectively become the labour market insurer and delivered as the pandemic did its worst. JobKeeper still has a lot of rough edges and many people are not covered including short-tenure casual workers, temporary visa workers (other than New Zealanders), and people in non-standard employment arrangements—those in the arts and entertainment, for example.

JobKeeper makes payments to more people than those who may have needed it. The present paper attempts to address that somewhat. Most important though, the government has indicated that JobKeeper will end in September 2020 and nothing has been announced that might replace JobKeeper. The present proposal would allow JobKeeper to be retained while clawing back spending if the payments are no longer needed, as in the event of a return to low unemployment rates. In other words, the present proposal involves a gradual reduction in *net* outlays under JobKeeper as the economy improves. But it remains vital that JobKeeper or something similar is retained.

Background

JobKeeper was legislated to last six months to 27 September. When announced on 31 March it was expected to cost $130 billion and expected to cover 6.5 million workers

(Australian Government 2020a) but was subsequently revised down and then expected to cover 3.5 million workers with 2.9 million being covered at 20 May (Treasury 2020). At the same time the estimated cost was revised down to $70 billion.

The ABS has said that when they undertake the labour force survey they expect people who are paid through JobKeeper 'will answer the questions in a way that results in them being classified as employed, regardless of the hours they work (e.g. even if they are stood down)' (ABS 2020). Treasury has estimated there are about 5 per cent of the labour force on JobKeeper who would otherwise have been unemployed. That amounts to around 650,000 people. There would also be a large number of workers whose hours have been reduced. Nevertheless, by covering all eligible workers while they still had attachments to a qualifying business it was to be expected that there would be a higher cost than covering only those who actually became unemployed. Our proposal addresses that.

JobKeeper is popular and people want it to continue

A special Newspoll commissioned by The Australian over 1 to 3 April 2020 showed 86 per cent of voters said they approve of the JobKeeper scheme (NewsPoll 2020). Almost two thirds (64 per cent) also thought the amount $1,500 a fortnight was 'about the right amount'. Polling by *The Australia Institute* shows 81 per cent of Australians support extending the wage subsidy to casual workers regardless of the length of employment with their present employer. That figure includes 79 per cent of Coalition voters. That polling took place between 3 and 6 April 2020. Note that these two polls were taken just before the national wage case that increased the minimum wage to $19.84 an hour or $1,507.84 a fortnight.

Deloitte Economics has said the government needed to consider a staged end to the program, in order to avoid delaying an uptick in unemployment. Deloitte forecasts unemployment will not return to pre-COVID levels until 2024. It believes the transitional scheme will need 'detail and complexity will be important, with different businesses and occupations to be going back to work at different speeds' (Whyte 2020). This seems rather complicated.

The present proposal

There is not going to be a clear and obvious date when we pass from needing JobKeeper to finding it is no longer necessary. Indeed, there is no guarantee that there will be a rapid return to how conditions were in late 2019 early 2020. Hence we need a transition strategy.

At the moment an eligible business receives JobKeeper on behalf of all their staff even though their circumstances may not be such as to put all their staff at risk of being laid off. It is in everyone's interest that JobKeeper is focused more effectively towards those who need it.

The purpose of JobKeeper has never been to subsidize business profit. So when the JobKeeper payment results in a profit there should be a means of clawing back that payment. That seems self-evident. One possibility is to simply require repayment in the event the business makes a profit. Also you only want to claw back that part of the JobKeeper payment that it pushes a business into the black.

Our proposal is simple and would give effect to clawing back the payment from such businesses. JobKeeper is already taxable which means that larger companies (turnovers over $50 million) pay 30 cents in every dollar they receive as JobKeeper payments.[1] That effectively means that if a business did not need JobKeeper to keep its 'head above water' then some of the excess JobKeeper payment is clawed back through the tax system. However, rather than clawing back 30 per cent of JobKeeper we should be clawing back a much larger amount. We will be working with two examples, claw backs of 60 and 90 per cent. That in essence is the nature of the proposal here—a substantially higher tax rate on JobKeeper or that part of it which results in the business producing a profit.

It is worth stressing that if the company is not making a profit then none of the JobKeeper payment will be taxed. However, if due to JobKeeper there is a profit then that part of the profit due to JobKeeper will be taxed and so clawed back. When business submits its income tax return (company tax, tax on a trust, partnership etc) the value of any JobKeeper payment would be taxed at a substantially higher rate than other profit. In the following examples we use the options of 60 and 90 per cent tax rates on JobKeeper, or that part of the JobKeeper payment that contributes to profit.

Tax is calculated on an annual basis so our examples are based on tax-years and assume JobKeeper is paid over a full tax-year to keep the example simple. To make it more realistic would use the present JobKeeper payment over six months and straddling two tax-years. That complexity is not necessary to show the principles involved.

[1] For companies with a turnover below $50 million in 2020-21 the tax rate is 26 per cent but here we use the 30 per cent rate for simplicity.

Example 1

In this section we consider the claw back and how it operates now and how it would with a 60 and 90 per cent tax applied to JobKeeper.

Let us take an example of a company before the pandemic with the following annual figures:

- revenue of 150
- a wage bill of 90
- other expenses of 40
- that company makes a profit of 20 and pays tax of 6.[2]

Just for convenience we assume each employee receives an annual wage of 30 and our example includes three employees. Now suppose the pandemic hits and revenue falls to 100 pa. in this case everything else says the same except that the profit is now a loss of 30. We will also suppose JobKeeper is paid at 20 per eligible employee.

The possible outcomes are given in Table 1 which we call Example 1. In this example we first look at what would happen in the absence of JobKeeper and then with JobKeeper. The first example in column 1 describes the situation just outlined with revenue falling to 100. Column 2 considers the impact of JobKeeper. In the last two columns we look at the case where JobKeeper is taxed at 60 and 90 per cent.

Table 1: Example 1, JobKeeper returns the business to profit

	Without JK	plus JK	Plus JK and super tax	
			60%	90%
	1	2	3	4
COVID affected receipts	100	100	100	100
JobKeeper	0	60	60	60
Wages	90	90	90	90
Rent, intermediate inputs etc	40	40	40	40
Result before tax; profit (- loss)	-30	30	30	30
Result after tax	-30	21	12	3
JK net payment	0	51	42	33

[2] To keep things simple we take the example of a company subject to the standard company tax rate of 30 per cent.

The effect of introducing JobKeeper is shown in column 2 with the entry of 60 in the JobKeeper row. This company now makes a profit of 30 and so pays tax of 9 leaving an after tax profit of 21. The government spends 60 on JobKeeper and the net outlay by the government after clawing back some tax is 51. That is how the system operates at present. The final two columns show how things would be affected by a 60 and 90 per cent tax on JobKeeper payments.

In this case, as it happens, the figures in column 1 would warrant dismissing one worker so that the business would just break even. However, with JobKeeper profitability is restored and all the workers are retained. In that case the government spends 60 on JobKeeper to save a job that pays 30, however, it receives back in tax 9 (= 30 – 21) implying a net cost of JobKeeper equal to 51.

As the tax rate on JobKeeper increases from 30 per cent to 60 and 90 per cent and all else remains the same before tax. But after tax the profit falls substantially as the claw back increases. At a 90 per cent tax on JobKeeper the after tax profit in example 2 falls to just 3. Meantime in this example the net cost to the government falls from 51 to 42 and then 33.

Before leaving this section we mentioned that the purpose of JobKeeper was never to increase employers' profits. But, as in the example, a lot of the excess JobKeeper payment is going directly to businesses' bottom line. Hence the importance of the present proposal. A good deal of the excess payment would be returned to the government. Hence in column 1 the business makes a loss of 30 and under present arrangements in column 2 the business makes an after-tax profit of 21. But with a 60 and 90 per cent tax on JobKeeper the after-tax profit falls to 12 and 3 respectively and much of the excess is clawed back.

We now turn to consider the case where JobKeeper adds to profit and profit actually exceeds the JobKeeper payment.

Example 2

In example 2 we take a company that remains profitable with the pandemic. Its profile is similar to example 1 but receipts fall by a lesser amount to 135, the other magnitudes remain the same resulting in a pre-tax profit of 5 and post-tax profit of 3.5.

Table 2: Example 2, Profit exceeds JobKeeper

	Without JK	plus JK	Plus JK and super tax	
			60%	90%
	1	2	3	4
COVID affected receipts	135	135	135	135
JK	0	60	60	60
Wages	90	90	90	90
Rent, intermediate inputs etc	40	40	40	40
Result before tax	5	65	65	65
Result after tax	3.5	45.5	27.5	9.5
JK net payment	0	42	24	6

As we can see in column 1, in this example there is still a profit so that there is no temptation for the business to dismiss any workers.[3] First impression is that JobKeeper payments of 60 are wasted because in this example there is a profit and JobKeeper increases that profit to a pre-tax profit of 65. However, at the moment the net cost of JobKeeper in this example is 42. if the tax rate on JobKeeper were increased to 60 per cent then the net cost of JobKeeper would fall to 24 and at 90 per cent the net cost would fall to 6.

In the last case of a 90 per cent tax rate the net cost of JobKeeper falls to 6 – a tenth of the gross figure.

What these examples demonstrate is that the cost of JobKeeper can be brought down to very low levels for the businesses that do not need it. The businesses that benefit most are those made unprofitable by the pandemic which would otherwise be forced to sack staff.

Note that in example 1 the workers are being paid 30 while JobKeeper is paid at 20 per worker. If the marginal product of the marginal worker is zero then it is worth laying off that person.[4] However, the existing rules say JobKeeper must be paid to all eligible workers which obliges businesses to either retain or dismiss *all* their staff. While that rule protects eligible workers, it has the likely effect of encouraging businesses to

[3] There remains an incentive to dismiss a worker if that would reduce revenue by less than the gain in a lower wage bill.

[4] If for example two workers are all that are needed to produce sales of 100 then the third worker could be dismissed without reducing revenue.

dismiss casuals and temporary visa holders. That became most apparent when considering and constructing the examples, some of which are presented above.

If sales are such that the potential output of the marginal worker is zero it is not worth keeping them on and paying them. If the marginal worker's wage exceeds JobKeeper it is still not worth keeping them on unless there is some rule such that JobKeeper has to apply in respect of all eligible workers. Casuals and temporary residents are not eligible nor do the rules require that they must be retained. Hence while JobKeeper encourages business to keep on their eligible employees it virtually encourages them to dismiss the non-eligible employees. To the extent that non-eligible employees are more likely to be part-time workers, this discrimination in JobKeeper may explain the large fall of 12.4 per cent in part-time employment compared with a lower 3.7 per cent fall in full-time employment between March and May (ABS 2020).

Excluding casuals and temporary visa holders is of course quite unfair. But the present incentives virtually oblige employers to dismiss these groups. The system needs reforms aimed at making businesses neutral as between workers, at least on these extraneous grounds. While the extension of JobKeeper to those groups not presently included is urgent, the present paper is focused on the claw back proposal.

Before leaving this section note that the business in example 2 examines only a 10 per cent reduction in revenue and so may be thought ineligible for JobKeeper which specifies a 30 per cent reduction in revenue for a business with a turnover up to $50 million. However, example 2 uses annualized figures while the JobKeeper rules and specifically the 'decline in turnover test' says that for most businesses the test compares revenue in a month or quarter with the corresponding period in 2019 (Australian Government 2020b). Passing that test makes the business eligible for JobKeeper for the whole six months.

Discussion

At the moment JobKeeper attracts the ordinary company tax rate (or the applicable personal income tax rate for an unincorporated business). The proposal here is simple: tax JobKeeper payments at a higher rate in order to claw back the JobKeeper payment from businesses that do not really need it. The attraction of modifying company tax to obtain a claw back is that no tax is payable unless the company actually earns a profit and the higher company tax rate only applies on that part of the profit due to JobKeeper.

We may well ask if it might be worth clawing back JobKeeper at 100 per cent when JobKeeper adds to the profits of the business. However, in this case a profitable

business may find it is not worth continuing to employ workers if the business gets nothing out of the arrangement. It seems necessary to make sure that the business has some skin in the game as it were.

On the latest figures for which we have data there were 434,037 companies who declared a nil or zero profit with the average loss of just $81,783 (ATO 2020). The median loss is not given but we suspect it is substantially lower than the average figure as calculated here. Hence, if we take 2016-17 as a 'normal' year, we suggest that while there are a large number of companies that make a zero profit or negative income they are not very far below the cutoff point above which they would declare a profit. That means that in normal times a payment such as JobKeeper will indeed attract additional tax liabilities for the companies that receive it. The number of loss-making businesses will not be as high as now and the actual losses will be more modest.

These considerations suggest that if or when the Australian economy does indeed return to normal times, JobKeeper with the proposed refinements would not be expensive. By that time we would hope as well that the remaining 'bugs' have been eliminated from the scheme.

Recent speeches by the government suggest more optimism on the future course of the Australian economy. If correct, that suggests there will be more chance that a large part of JobKeeper will be clawed back and that claw back would be accelerated at the higher tax rates on JobKeeper. In this way JobKeeper could be retained but also become a self-extinguishing payment with the expected economic recover.

It is expected that the presently proposed claw back would operate together with other design changes. The eligibility of various classes of employee needs to be reviewed. Also there might be adjustments for people who earned much less than the $1,500 a fortnight.

Deloitte Chris Richardson warned that job subsidies merely prop up zombie workers if the subsidy lasts too long (Richardson 2020). By 'zombie workers' Richardson means workers employed by businesses that have no hope of surviving even if or when we get back to 'normal'. However, that is no reason for haste; we will not be able to tell which companies are zombies until we are indeed back to normal. Looking to the future we envisage an evolution in JobKeeper whereby it turns into an insurance scheme for workers. This at least is a debate worth having.

CONCLUSION

We have put the case that rather than dumping JobKeeper we can reform it in such a way that more of the payment is clawed back by the government and that can be done by making it taxable at a much higher rate than other business income. This can be achieved very quickly merely by increasing the rate at which JobKeeper is taxable for companies earning a profit. That change would mean that the net cost of JobKeeper would fall immediately and would continue falling as the economy improves.

While considering these aspects of JobKeeper it is apparent that there is a powerful incentive in the system that encourages the dismissal of casual workers and temporary residents which should be urgently addressed. The present incentive in JobKeeper is to dismiss non-eligible workers.

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