

TAX TALK

More tax changes to support business

The government has announced an additional package to support businesses dealing with the economic effects of COVID-19. This adds to the already existing wage subsidy scheme, the Business Finance Guarantee scheme and tax changes legislated for in late March.

The additional measures include:

- The ability to carry tax losses back;
- Changes to the tax loss continuity rules;
- Greater flexibility for taxpayers in respect of statutory tax deadlines;
- Measures to support commercial tenants and landlords; and
- Further business consultancy support.



These measures are discussed here, with more details still to come in late April.

Tax loss carry-back scheme

When a business incurs a loss (whether a company, partner in a partnership, sole trader or trust), it is able to carry the loss forward to future periods and then use those losses to reduce future taxable income. However, when a business is in a loss position, they are often scrambling to find cash to keep operations going and tax losses have minimal value to them.

The government is proposing to allow businesses to carry losses back to the immediately prior year. This would mean a business incurring a loss in say the 2021 year would be able to carry the loss backward to the 2020 year and obtain a refund of taxes paid previously.

The government announced the details will be contained in a bill due to be introduced to Parliament in the last week of April. For businesses with a provisional tax payment due on 7 May, or businesses who have been unable to pay their terminal tax due 7 April, they will be able to plan for the effect of being able to carry back a loss they may make in 2021 against 2020 taxable income. Financial modelling will therefore be crucial for this to determine the amount of a likely loss in 2021.

Now, for tomorrow

Company tax loss continuity rules

New Zealand has reasonably strict tax loss continuity rules for companies, with shareholder continuity of at least 49% needing to be maintained from the time losses are incurred through to the time they are utilised. This can act as a double edged sword as companies in a loss position are often in need of capital injections from outside investors. The new capital can mean that tax losses are extinguished because the required 49% continuity has not been maintained.

The government has announced they will be loosening the tax loss continuity rules. In particular, government has recognised that companies needing new capital will need a level of certainty to undertake these transactions, including whether tax losses will be preserved. This comment, as well as the example provided in the government's fact sheet, indicates they are leaning to a 'same or similar business test' akin to that utilised in Australia. Broadly, this means losses can be carried forward if the company is carrying on the same or similar business to what it was before the change in shareholding of more than 51%.

It is not clear yet whether the new rules will complement or replace the existing shareholder continuity rule. Unfortunately, the full detail will not be known until a bill is released in the second half of 2020.

Greater flexibility for deadlines

The government plans to allow Inland Revenue to have the discretion to provide an extension to due dates and timeframes. It is intended this will primarily impact on tax return due dates, and provisional and terminal tax due dates, will only last 18 months, and would have a narrow scope.

This is a double edged sword. While on the one hand, not having to worry about tax returns for an extra period of time may be beneficial, on the other hand, the messaging coming from Inland Revenue is they expect tax returns to continue to be filed, even if taxpayers are not in a financial position to pay the underlying tax. This is so Inland Revenue have visibility on how much is owed to them. We expect this discretion will be used sparingly.

Support for commercial tenants

The government has announced commercial landlords will need to wait 30 working days instead of the usual 10 working days before being able to cancel leases where rent is in arrears.

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Conclusion

The government is also indicating further relief measures for businesses and households will be announced as they become more aware of the full economic consequences of the current crisis. With the Budget being less than a month away, we are expecting the next tranche of announcements will accompany the 2020 Budget.

If you have any queries about relief being offered by the government, please contact your Baker Tilly Staples Rodway advisor.

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