

COVID-19 tax relief measures passed under urgency

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The media has called it the biggest tax support package in New Zealand's history – but what exactly is it, and what could it mean for your business?

On 30 April 2020, the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act was unanimously passed by Parliament. This Act brings into law several temporary measures that are intended to provide financial support to businesses through the tax system and the Commissioner of Inland Revenue, and is expected to provide more than NZ\$3b in tax relief.

The proposals in the Act are aimed at assisting the Government's response to impacts of the COVID-19 outbreak, including targeted measures providing relief to those who have been economically affected by the outbreak, bringing forward or deferring commencement dates of new legislation, and extending timeframes for meeting regulatory deadlines.

Key points

First, the Act establishes a loss carry-back scheme, of which much discussion has already been made. Loss carry-backs are intended to prevent over-taxation where gains are made in one tax period and losses the next. Ordinarily, taxpayers can offset losses against future gains. However, this scheme introduces the ability for certain losses to be carried back, offset against previous tax paid, and actually refunded in cash to the taxpayer. The loss carry-back scheme is a temporary measure that will apply to losses incurred by a person in the 2019-20 or 2020-21 income years and allows refunds of tax paid in the immediately preceding year. While initial indications were that the loss carry back scheme was to apply in the context of small and medium enterprises, the legislation has been drafted in a way that applies to almost all types of taxpayers, including companies, trusts and certain individuals.

The second key development is the introduction of a discretion for the Commissioner, on behalf of the Crown, to lend money under the Small Business Cashflow (Loan) Scheme to assist eligible small and medium businesses that have been adversely affected by COVID-19.

Lastly, the Act grants the Commissioner discretionary powers to provide an extension to due dates, timeframes or modify other procedural requirements for taxpayers who are impacted by COVID-19. These powers are initially limited to an 18-month period but can be extended by an Order in Council. These powers are intended to be limited to initiatives which are taxpayer friendly.

Observations

All New Zealand businesses have felt the effects of COVID-19 and so the extension of the loss carry-back mechanism beyond businesses of a particular size is a welcome and equitable approach.

Questions will undoubtedly be raised about the speed with which the Act was passed, and the appropriateness of the discretionary administrative powers granted to the Commissioner under the Act. However, COVID-19 and the economic fallout is not going to wait while the usual consultative process is followed before legislation is enacted. Businesses small and large are suffering from hardship and this has a direct impact on the wellbeing of all New Zealanders. As was outlined by a number of politicians, the legislation might not be perfect but the need is great, times are extraordinary and it was in the best interests of the country's businesses to pass the Act as soon as possible.

Final thoughts

The tax loss carry-back and small business loans are temporary measures. If you would like advice on how these measures could benefit your business, Buddle Findlay's tax team are available to discuss your individual circumstance.

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