BUDDLE FINDLAY

# COVID-19: Significant tax changes proposed

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***Further legislative detail is expected on 27 April 2020.***

On 15 April 2020 the Government announced significant tax changes to mitigate the impacts of COVID-19. The proposed changes are targeted at small to medium enterprises (SMEs) which may be unable to take on additional debt and therefore require Government support in order to remain operational.

The latest proposals are in addition to the reform package announced earlier this month regarding R&D tax credits, depreciation deductions and provisional tax. Those earlier changes apply to all qualifying businesses, whereas the 15 April 2020 proposals will be targeted at SMEs.

The changes proposed on 15 April 2020 include:

- A tax loss "carry-back" scheme which permits losses incurred in either the 2020 or 2021 tax year to be carried back to the prior tax year. This effectively enables tax losses to be "cashed up" to the extent that tax has been paid in the immediately preceding tax year
- A concession that allows businesses to raise additional capital without forfeiting their ability to use tax losses in later income years.

Material details regarding the operation of the changes are yet to be released. For example, no indication has been provided as to which businesses qualify as SMEs for the purposes of these concessions.

**Positive steps**

Officials and the Government are to be applauded. The proposed changes represent genuinely innovative thinking around how to provide actual cash relief to a substantial portion of New Zealand businesses via the tax system.

Of course, the changes will not relieve all taxpayers struggling with cash flow, in particular those hoping for the ability to cash up tax losses irrespective of whether tax has been paid in the past (such as start-up businesses). For those businesses, some consolation may be found in the fact that the new ability to carry forward tax losses will provide assistance to them in the longer term.

**Implications for businesses now**

The announcement does not contain sufficient detail for prudent businesses to take immediate action. It is currently expected that draft legislation on these changes is to be introduced on 27 April 2020. As further detail comes to light next week, the scope of the proposed changes will become clearer and businesses will know whether they benefit from the changes announced.

For those businesses contemplating a capital injection (or winding up), the 15 April 2020 announcements should give them reason to pause and defer action until the shape of the proposed reforms becomes clearer.

**Wider ramifications**

Looking further ahead we anticipate that non-SMEs might ask whether it is appropriate for them to be excluded from the proposed changes announced today. While the financial implications of allowing all businesses to benefit from the proposed changes will mean that it is likely sometime before the Government widens the reforms to all businesses, there are strong policy pressures in favour of consistent treatment across all taxpayers.

We also anticipate that proposals allowing cashing up of tax losses may reignite a long running debate as to the refundability of imputation credits (which represent tax paid) where received by non-tax paying entities (such as charities). Again, fiscal considerations are likely to mean the current non-refundability approach being maintained.

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