

3 April 2020

Ms Maryanne Mrakovcic
Deputy Secretary, Revenue Group
The Treasury
Langton Crescent
PARKES ACT 2600

By email: Maryanne.Mrakovcic@treasury.gov.au

CC: Louise Clark, Deputy Commissioner of Taxation, Australian Taxation Office

Dear Maryanne,

Input on First Stimulus Legislation – Economic Recovery Package

The National Tax Liaison Group (**NTLG**) is the Australian Taxation Office's (**ATO**) longest standing consultative forum, focusing on strategic taxation matters of national interest. The primary objective of the NTLG is to provide a wide range of stakeholders with the opportunity to discuss the strategic direction of the tax system and to deliver opportunities for improvements to the administration of the tax system. The NTLG's membership is comprised of senior ATO and Treasury officers and representatives of the major tax, law, and accounting professional associations.

Chartered Accountants Australia and New Zealand, Corporate Tax Association, CPA Australia, Institute of Public Accountants, Law Council of Australia and The Tax Institute (together **the Joint Bodies**) are the external members of the NTLG. We write to you as the peak professional accounting and tax practitioner bodies in Australia representing the tax profession at this critical time.

The Joint Bodies have considered the Federal Government's legislation on the Government's Economic Recovery Package and offer the following observations.

Instant Asset Write-off

1. Substituted Accounting Period

There is an issue as to whether the Instant Asset Write-off (**IWO**) works as intended for taxpayers with Substituted Accounting Periods. The issue is as follows:

The *Coronavirus Economic Response Omnibus Act 2020* (**the Act**) amends section 40-82 of the *Income Tax Assessment Act 1997* (Cth) (**ITAA97**) to increase the maximum asset cost to \$150,000, for assets put into use between 12 March and 30 June 2020 by a business with aggregated turnover under \$500 million.

One of the eligibility requirements for the IWO in the current law - para 40-82 (1)(c) – is that the taxpayer's income year ends on or before 30 June 2020.

The Act does not modify this paragraph, and therefore it would appear that a business that puts an otherwise eligible asset into use by 30 June 2020, but which had a substitute accounting period ending after that date say 31 July or 31 December, could not get the new IWO. There is a separate paragraph – new (d)(i) – which provides the parameters for the use of the expenditure (“if you start to use the asset, or have it installed ready for use, for a taxable purpose in the period beginning on 12 March 2020 and ending on 30 June 2020—\$150,000”).

An additional change to rectify this would be either to extend the current year end date in para 40-82(1)(c)(ii) to 30 June 2021 (so a 31 May SAP would work) or simply delete the current year end requirement (which does not appear to operate usefully).

2. Start to use or installed ready for use

In the three weeks since the measures were proposed we have seen a significant deterioration in outlook for businesses. With this in mind, consideration should be given to amending the ITAA by either:

- (a) having a commitment period which ends on 30 June 2020 but a start to use or installation date of 31 December 2020 (and possibly later given difficulties with supply chains); or
- (b) extending the start to use and the installation date to 31 December 2020.

Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Act 2020

3. Businesses starting up in December or January

Businesses that have started up in December 2019 or January 2020 who have paid salary and wages before 12 March 2020, held an ABN before 12 March 2020, have made a taxable supplies in a period that ended after 12 March, say from 1 January to 31 March 2020 and have not provided notice of the taxable supplies before 12 March 2020 will not be entitled to the cash flow boost.

The Commissioner has a discretion in relation to the notice period, but not in relation to the period end. This could be rectified by amending paras 5(6)(a)(ii) and 6(6)(a)(ii) to add the words “(or later time allowed by the Commissioner)” as below:

- (6) For the purposes of paragraph (1)(d), the requirement in this subsection is satisfied if:
 - (a) the entity made a taxable supply in a tax period that applied to it that:
 - (i) started on or after 1 July 2018; and
 - (ii) ended before 12 March 2020 (or later time allowed by the Commissioner); and
 - (b) the Commissioner had notice on or before 12 March 2020 (or a later time allowed by the Commissioner) that the entity had made the taxable supply.

We hope these suggestions assist and would be pleased to discuss this at any time.

Should you wish to discuss our submission, please do not hesitate to contact Tax Counsel Stephanie Caredes on 02 8223 0059 in the first instance.

Yours sincerely,



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