



Tax Insights

Tax and business relief in response to COVID-19

Snapshot

The global COVID-19 pandemic is having a significant impact on all of us: business, families, the economy, the health system our broader communities are all affected. In response, the Australian government has released various economic stimulus packages and other support measures.

A first round of \$17.6 billion [stimulus measures](#) was announced by the Federal Government on 12 March 2020 and further \$66.1 billion [economic support measures](#) were announced on 22 March 2020. In addition, further support will be provided by way of Federal Government loan guarantees, \$15 billion of support for smaller lenders and Reserve Bank measures. Legislation to quickly implement the Federal stimulus measures was introduced into Parliament on 23 March 2020.

The Australian Taxation Office (ATO) has also announced a series of administrative measures to assist in meeting their tax obligations as a result of the disruption to business.

In addition, various State Governments introduced tax relief measures for businesses within their states.

This Tax Insights is designed to provide business with a consolidated view of all the relevant Government tax and business reliefs introduced to help Australian taxpayers. It also includes the ATO's administrative positions in respect of certain tax issues that have emerged to-date.

This publication is **current as of 24 March 2020**, but we expect that the tax and business-related responses will continue to evolve.

Legislation

Extensive legislation was introduced and passed by Parliament on **23 March 2020**. The Explanatory Memorandum (EM) is almost 250 pages, and the main bill (Coronavirus Economic Response Package Omnibus Bill 2020) is almost 100 pages. This legislation received Royal Assent on 24 March 2020.

The legislative package contains a number of bills to implement the Government's economic response:

- Coronavirus Economic Response Package Omnibus Bill 2020 (the Omnibus Bill)
- Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020
- Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020
- Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020
- Structured Finance Support (Coronavirus Economic Response Package) Bill 2020
- Appropriation (Coronavirus Economic Response Package) Bill (No 1) 2019-2020
- Appropriation (Coronavirus Economic Response Package) Bill (No 2) 2019-2020
- Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020

Of most relevance from a tax and business perspective, the Omnibus Bill introduces the following measures

- Schedule 1 – Enhancing the Instant Asset Write-Off
- Schedule 2 – Backing business investment
- Schedule 3 – Boosting cash flow for employers and Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020
- Schedule 4 – Stimulus payments to households to support growth
- Schedule 7 – Assistance for apprentices and trainees and the aviation sector
- Schedule 8 – Providing flexibility in the Corporations Act
- Schedule 10 – Superannuation drawdowns
- Schedule 11 – Additional support for income support recipients
- Schedule 12 – Temporary relief for financially distressed individuals and businesses
- Schedule 13 – Early release of superannuation
- Schedule 14 – Medicare levy and Medicare levy surcharge low-income thresholds
- Schedule 15 – Delaying the next intergenerational report to 2021

In view of the extensive material contained in the relevant bills and the EM, prior to the publication of this Tax Insights (as at 23 March 2020), we have only had limited opportunity to review the proposed law. Where relevant, some comments based on the bills are included below. Further analysis based on the proposed law will be undertaken shortly.

Federal response: Stages 1 and 2

The first \$17.6 billion stimulus package was announced on 12 March 2020 and a further \$66.1 billion economic support package was announced just 10 days later, on 22 March 2020.

The Government's economic response is designed to support businesses in managing short-term cash flow challenges, provide support to individuals, severely affected communities and regions, and to ensure the continued flow of credit in the Australian economy. In this regard, it comprises various assistance measures, targeting 3 key areas:

- Supporting individuals and households;
- Supporting businesses; and
- Supporting the line of credit.

The timing of key measures is summarised in Table 1 below.

Table 1: Timing of Assistance (extract from this [Treasury Factsheet](#))

Date	Support
Immediately, with deductions to be included in 2019-20 tax returns	Increased instant asset write off
Immediately	Temporarily reduced minimum drawdown rates for superannuation
Immediately, with deductions to be included in 2019-20 tax returns	Backing business investment – accelerated depreciation
As soon as practicable	Support for Coronavirus-affected regions and communities
From 31 March 2020	First round of \$750 payments to support households
Applications from early-April	Assistance for existing apprentices and trainees
Applications from mid-April 2020	Temporary early release of superannuation
From 27 April 2020	Income support and a Coronavirus supplement
From 28 April 2020	First phase of Boosting Cash Flow for Employers
From 1 May 2020	Increased transfer payments from reduced deeming rates
From 13 July 2020	Second round of \$750 payments to support households
From 21 July 2020	Second phase of Boosting Cash Flow for Employers

Budget implications

The Federal Government announcements include estimated revenue impacts over the forward estimates (2019-20 through to 2023-24), showing a total cost to the Budget of \$63.7 billion. The largest single contributor to this is Boosting Cash Flow for Employers (\$31.9B) followed by Income Support for Households (\$14.1B). However, even though these figures are for the period to 2023-24, 97% of the forecast revenue impact falls in the current year and the 2020-21 year.

In other words, the Government response so far is assuming that the extraordinary measures will have a significant financial impact principally only over two financial years. It remains to be seen whether the Budget impact will increase over the current year and the 2020-21 year, and whether the Budget impacts extend beyond those two years.

Cash flow assistance for Small and Medium-sized Entities (SMEs)

Boosting cash flow for employers

The 'Boosting Cash Flow for Employers' measure was first announced as part of the Government's economic stimulus package of 12 March, and further enhanced on 22 March. The summary below focusses on the position after the 22 March announcements.

This measure aims to ease business cash flow via the 'Boosting Cash Flow for Employers' payment of between \$20,000 - \$100,000, as follows:

- SMEs and not-for-profit entities with aggregated annual turnover **under \$50 million**¹ that employ workers will receive a **tax-free** amount.
- Eligible SMEs must be active employers established prior to 12 March 2020 (or registered charities, even if established after that date).
- This benefit is effectively in 2 phases:
 - Phase 1: Based on Business Activity Statements (BAS) lodged from April to July 2020; and
 - Phase 2 (Additional Payment): Based on BAS lodged from July to October 2020.
- The maximum payment under each Phase is \$50,000. As a matter of administrative simplicity, the amount of the Additional Payment will be equal to the payments received under Phase 1.
- The ATO will first deliver the Phase 1 cash flow boost as a credit to eligible employers upon lodgement of the March 2020 activity statements (whether quarterly or monthly), due to be lodged in late April 2020.
 - Quarterly lodgers will be eligible to receive the payment for the quarters ending March 2020 and June 2020. Monthly lodgers will be eligible to receive the payment for the March, April, May and June 2020 lodgements.
- Under Phase 1, eligible employers that withhold tax on their employees' salary and wages will receive a payment equal to 100 per cent of the amount withheld, up to a maximum payment of \$50,000.
- Eligible employers that pay salary and wages will receive a minimum payment of \$10,000, even if they are not required to withhold tax.
- The ATO will first deliver the Phase 2 'Additional Payment' as a credit to eligible employers upon lodgement of the June 2020 activity statements (whether quarterly or monthly), due to be lodged in late July 2020.
 - Quarterly lodgers will be eligible to receive the payment for the quarters ending June 2020 and September 2020. Monthly lodgers will be eligible to receive the payment for the June, July, August and September 2020 lodgements.
- Eligible entities must continue to be active to receive the Additional Payment equal to the total of all of the 'Boosting Cash Flow for Employers' payments they have received. This means that eligible entities will receive at least \$20,000 under both Phases, up to a total of \$100,000.

See this [Treasury Factsheet](#) and the [ATO website](#) for more details.

¹ Generally based on prior years' turnover.

Preliminary comments from an initial review of the legislative package

An entity will be eligible for this measure if it is either:

- A small business entity, as defined in section 328-110 of the *Income Tax Assessment Act 1997 (ITAA 97)* which, *inter alia*, refers to turnover of less than \$10 million; or
- A medium business entity: effectively defined as an entity which would be a small business entity if each reference in Subdivision 328-C of the *ITAA 97* which refers to \$10 million was instead a reference to \$50 million.

The relevant turnover amount is effectively determined either by reference to:

- The actual turnover for the most recent income year for which there is an assessment in respect of the entity; or
- The Commissioner is satisfied on a reasonable basis that the turnover for the income year including 1 January 2020 for quarterly lodgers, or 1 March 2020 for monthly lodgers (i.e., the year ended 30 June 2020 or 31 December 2020) is less than \$50 million.

In respect of medium entities, it is noted that the linkage to subdivision 328-C of the *ITAA 97* includes a reference to section 328-115. This provides that in determining the aggregated turnover of an entity, it is necessary to have regard to connected entities and affiliates. On the other hand, the EM notes that the turnover test is to be based on information "known to the Commissioner" so as to permit "payment to these entities without further information or analysis".

This EM comment implies that the turnover test is to be applied based on the turnover of the relevant entity, which will be known to the Commissioner based on the previously filed tax return information taken into account in making the most recent assessment of the entity. It is expected that the application of the turnover test in practice will be clarified.

Importantly, the second test above allows these provisions to apply to entities who have not previously been assessed, or entities which "have gone through a significant change in circumstances since their most recent assessment". As it is likely that turnover for some businesses will significantly reduce in the current financial year, it will be the case that certain businesses which previously had a turnover in excess of \$50 million will fall below that amount in the current year, and should therefore become eligible for this measure.

An entity that is a not-for-profit body will be treated as carrying on a business for the purposes of this measure.

Enhancements to the Instant Asset Write-Off (IAWO)

- The threshold for assets eligible for the IAWO has been increased from \$30,000 to **\$150,000** and is available to businesses with aggregated annual **turnover of less than \$500 million**, until **30 June 2020**.
- The IAWO applies "from announcement" (12 March 2020) to new or second-hand assets first used or installed ready for use in this timeframe. As the relevant deadline is only some three and a half months away, taxpayers will need to act quickly, especially for any asset with a delivery lead time.
- The threshold applies on a per asset basis, so eligible businesses can immediately write-off multiple assets, thereby providing cash flow benefits to these businesses.
- Eligible assets are assets for which a decline in value (i.e. tax depreciation) is deducted under section 40-25 of the *ITAA 1997*. An exclusion applies for assets that do not currently qualify for simplified depreciation rules. These include capital works deductions, software allocated to a software development pool, horticultural plants including grapevines, assets allocated to a low-value assets pool and assets that are leased out or expected to be leased out for more than 50% of the time on a depreciating asset lease.
- The IAWO will revert to \$1,000 for small businesses (turnover less than \$10 million) from 1 July 2020.

Backing business investment (BBI) - accelerated depreciation

- The BBI or accelerated depreciation incentive offers an immediate deduction of 50% for eligible expenditure that does not fall within the above instant asset write-off, either because the item exceeds the \$150,000 threshold, or the item is not first used or installed ready for use by 30 June 2020.
- Businesses with aggregated annual **turnover less than \$500 million** will be able to deduct 50% of the cost of an eligible asset at the time of installation, with existing depreciation rules applying to the balance of the asset's cost. Therefore, eligible companies will be able to claim the immediate deduction of 50%, plus the Division 40 depreciation deduction with respect to the balance of the asset's cost, in the year the asset is installed (see example below).
- Eligible assets refer to new assets that can be depreciated under Division 40 of the *ITAA 1997* (i.e., plant, equipment and specified intangible assets, such as patents) acquired after the announcement (12 March 2020) and first used or installed by **30 June 2021**.
- This incentive does not apply to second-hand Division 40 assets, or buildings and other capital works depreciable under Division 43.

Example

A company with turnover of \$400 million purchases a depreciable asset costing \$250,000 on 1 July 2020, which is put to use immediately. The taxpayer has a 30 June year end. The asset depreciates uniformly over its effective life of 5 years and the company has a 30% income tax rate.

A comparison of the tax deduction calculations under existing rules and under the BBI is shown in Table 2.

Table 2: Tax depreciation comparison

	Year 1	Year 2	Year 3	Year 4	Year 5	Total (\$)
	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	
Existing rules						
Depreciation expense (\$)	50,000	50,000	50,000	50,000	50,000	250,000
Cash tax benefit (\$)	15,000	15,000	15,000	15,000	15,000	75,000
BBI – accelerated depreciation						
Immediate deduction (\$)	125,000	-	-	-	-	125,000
Depreciation expense (\$)	25,000	25,000	25,000	25,000	25,000	125,000
Cash tax benefit (\$)	45,000	7,500	7,500	7,500	7,500	75,000

See this [Treasury Factsheet](#) for more details on the IAWO and BBI.

Research and Development (R&D) perspectives on IAWOs and accelerated depreciation

Notably, where tangible depreciating assets are installed and used for R&D purposes before 30 June 2021, para 2.25 of the EM explicitly confirms that the accelerated depreciation component can be included in eligible R&D expenditure for the relevant income year.

The same applies to any IAWO amounts that are calculated under both the current and amended section 40-82. That is, the increased IAWO amounts, to a maximum of cost, can be included in R&D expenditure to the extent that each asset is installed and used for eligible R&D purposes located in Australia before 30 June 2020.

Practically this means that, under the revised thresholds from 12 March 2020:

- Refundable R&D taxpayers with aggregated turnover of less than \$20 million in a tax loss situation could obtain a maximum cash refund of \$65,250 per asset. Profitable entities could obtain a 16% additional net tax benefit of \$24,000 per asset.
- Non-refundable base rate R&D entities (aggregated turnover of \$20 million - \$50 million) could obtain an additional net tax benefit of 11%, amounting to a maximum of \$16,500 per asset.
- R&D entities with an aggregated turnover of \$50 million - \$500 million could obtain an additional net tax benefit of 8.5%, a maximum of \$12,750 per asset.

However, in contrast, any taxpayers seeking to claim an IAWO amount under the simplified depreciation rules in subdivision 328-D should not **use** tangible depreciating assets for any R&D purposes before 30 June 2020, to ensure that the entitlement to the IAWO is not endangered.

Assistance for employers with apprentices/trainees

To help small businesses support and retain their apprentices and trainees, the Government has introduced a wage subsidy payment:

- Small businesses (i.e. those employing fewer than 20 full-time employees) with apprentices or trainees can apply for a wage subsidy of 50% of the relevant wages for up to 9 months from 1 January 2020 to 30 September 2020.
- Employers will be reimbursed up to a maximum of \$21,000 per eligible apprentice or trainee (\$7,000 per quarter).
- Employers can register from early April 2020 and final claims for payment must be lodged by 31 December 2020. Further information can be found on the Department of Education, Skills and Employment [website](#) or the Australian Apprenticeships [website](#).

See this [Treasury Factsheet](#) for more details.

Cash flow assistance for individuals

Temporary early access to superannuation

- Eligible individuals will be able to access up to \$10,000 of their superannuation before 1 July 2020, in respect of the 2019-20 financial year. They will also be able to access up to a further \$10,000 from 1 July 2020 for the 2020-21 financial year.
- Eligible individuals are those that satisfy any one or more of the following requirements:
 - They are unemployed;
 - They are eligible to receive a job seeker payment, youth allowance for jobseekers, parenting payment (which includes the single and partnered payments), special benefit or farm household allowance; or
 - On or after 1 January 2020:
 - They were made redundant; or
 - Their working hours were reduced by 20 per cent or more; or
 - In the case of a sole trader — their business was suspended or there was a 20 per cent or more reduction in turnover.
- The early superannuation payment accessed will be tax-free and the money withdrawn will not affect Centrelink or Veterans' Affairs payments. Applications are to be made directly to the ATO through *myGov* from mid-April 2020.

See this [Treasury Factsheet](#) for more details.

Support for retirees

- Superannuation minimum drawdown requirements for account-based pensions and similar products are temporarily reduced by 50 per cent for the 2019-20 and 2020-21 income years.
- As of 1 May 2020, the upper social security deeming rate will be 2.25 per cent and the lower social security deeming rate will be 0.25 per cent.

See this [Treasury Factsheet](#) for more details.

Support for households

- Two separate \$750 payments will be provided to social security, veteran and other income support recipients and eligible concession card holders.
- The first payment (announced on 12 March 2020) will be available to people who are eligible payment recipients and concession card holders at any time from 12 March 2020 to 13 April 2020 inclusive.
- The second payment will be available to people who are eligible payment recipients and concession card holders on 10 July 2020.
- A person can be eligible to receive both a first and second support payment. However, they can only receive one \$750 payment in each round of payments, even if they qualify in each round of the payments in multiple ways.
- The payment will be exempt from taxation and will not count as income for the purposes of Social Security, Farm Household Allowance and Veteran payments.

See this [Treasury Factsheet](#) for more details.

Other business considerations

Temporary relief for financially distressed businesses

Some safety net measures have been introduced to lessen the threat of actions that could unnecessarily push many otherwise profitable and viable businesses temporarily facing financial distress into insolvency. The elements of the package are:

- A temporary increase in the threshold at which creditors can issue a statutory demand on a company and the time companies have to respond to statutory demands they receive;
- A temporary increase in the threshold for a creditor to initiate bankruptcy proceedings, an increase in the time period for debtors to respond to a bankruptcy notice, and extending the period of protection a debtor receives after making a declaration of intention to present a debtor's petition;
- Temporary relief for directors from any personal liability for trading while insolvent; and
- Providing temporary flexibility in the *Corporations Act 2001* to provide targeted relief for companies from provisions of the *Act* to deal with unforeseen events that arise as a result of the Coronavirus health crisis.

For owners or directors of a business that are currently struggling due to COVID-19, the ATO will tailor solutions for their circumstances, including temporary reduction of payments or deferrals, or withholding enforcement actions including Director Penalty Notices and wind-ups.

See this [Treasury Factsheet](#) for more details.

Supporting the flow of credit

- A 'Coronavirus SME Guarantee Scheme' will be introduced commencing early April 2020 until 30 September 2020. Under the scheme, the Government will provide a 50% guarantee on new loans made by SMEs with a turnover of up to \$50 million, for working capital purposes.
- The loans will have the following terms:
 - Maximum of \$250,000 per borrower;
 - Term of up to three years, with an initial 6-month repayment holiday; and
 - In the form of unsecured finance.
- As part of the loan products available, the Government will encourage lenders to provide facilities to SMEs that only have to be drawn if needed by the SME. This will mean that the SME will only incur interest on the amount they draw down.
- In order to enable quicker and more efficient access to credit, the Government is providing an exemption from responsible lending obligations for lenders providing credit to existing small business customers. This exemption is for 6 months, and applies to any credit for business purposes, including new credit, credit limit increases and credit variations and restructures.
- The Reserve Bank of Australia (RBA) has announced a term funding facility for the banking system. Banks will have access to at least \$90 billion in funding at a fixed interest rate of 0.25 per cent.
- In addition, the RBA announced a further easing in monetary policy by reducing the cash rate to 0.25 per cent. It is also extending and complementing the interest rate cut by taking active steps to target a 0.25 per cent yield on 3-year Australian Government Securities.
- The Australian Office of Financial Management (AOFM) will be provided with \$15 billion to invest in structured finance markets used by smaller lenders, including non-Authorised Deposit-Taking Institutions (non-ADI) and smaller Authorised Deposit-Taking Institutions (ADI).
- The Australian Prudential Regulatory Authority has announced temporary changes to its expectations regarding bank capital ratios.

See this [Treasury Factsheet](#) for more details.

Support from the banking sector

- Australian banks rolled out a [Small Business Relief Package](#) effective 23 March 2020, which:
 - Includes a deferral of principal and interest repayments for all term loans and retail loans of a small business² customer for 6 months (interest will be capitalised); and
 - Will be open to all current small business customers of a participating member bank, where the customer has advised that its business is affected by COVID-19, in all sectors of the economy, and on an opt-in basis.
- Banks are also able to individually offer relief that extends beyond these minimum terms, such as temporarily increasing overdraft facilities for 12 months or reducing variable interest rates on small business loans. More details are available [here](#).

Support for impacted sectors, regions and communities

- The Government has put aside \$1 billion to support those regions and communities that have or will be disproportionately affected by the economic impacts of COVID-19, such as tourism, agriculture and education.
- The assistance will be provided through existing or newly established government programs.
- This measure will include the waiver of the environmental management charge for tourism businesses operating in the Great Barrier Reef and entry fees for Commonwealth National Parks.
- Assistance will also be targeted at programs that identify alternative export markets or supply chains.

See this [Treasury Factsheet](#) for more details.

² A small business is generally defined in the Banking Code of Practice as if, at the time of applying for the relief, it has less than \$3 million total debt to all credit providers.

The ATO's response

On 12 March 2020, the ATO announced various [Support measures to assist those affected by COVID-19](#). The ATO is also providing updated relevant information at its main [COVID-19 page](#).

Unlike the bushfire relief measures, assistance measures for those impacted by COVID-19 will **not** be automatically implemented. All taxpayers (including large businesses) impacted are advised to contact your adviser or the ATO to discuss their situation.

Large taxpayers can also contact the Large Services Team or their existing dedicated ATO relationship manager within the Public Groups and Internationals business line of the ATO (refer [Support for large business impacted by COVID-19](#)).

The ATO is also preparing and updating a range of [frequently asked questions](#) on a range of issues. across the following areas:

- Individuals
- Employers
- Business – payments to us
- Business payments and reporting
- Interest and penalties
- Cancelled supplies and events
- International business
- Self-managed super funds

The ATO is to be applauded for the timely and practical approaches that have been announced. Jeremy Hirschhorn (Second Commissioner, Client Engagement Group) stated on LinkedIn that the ATO is "*trying our best to get tax obstacles out of the way, so you can focus on what's most important*" and "*don't agonise over academic or theoretical tax issues*" when asking the ATO for relief.

Deferral of payments

- The ATO has [announced](#) that taxpayers can defer by up to six months the payment date of amounts due through the BAS (including PAYG instalments), income tax assessments, Fringe Benefits Tax (FBT) assessments and excise.
- Lodgements are still required to be made on time, and the usual process for applying for lodgement deferrals continue to apply.
- Employers will still need to meet their ongoing super guarantee obligations for their employees.

PAYG instalments

- The ATO has announced ([here](#) and [here](#)) that quarterly PAYG instalment payers can vary their PAYG instalment amounts to nil for the March 2020 quarter. They can do so through their activity statements and should use 'Code 23 - significant change in trading conditions' or 'Code 26 - financial market changes' as the reasons for the variation.
- Businesses that vary their PAYG instalment to nil can also claim a refund for any instalments made for the September 2019 and December 2019 quarters, at item 5B of the March 2020 activity statements. Given that there are usually large PAYG instalments paid by SGEs, the refunds may take longer to process.
- Taxpayers can also consider discussions with the ATO regarding any issues in meeting other tax payment dates, including PAYG liability in respect of salaries.

Cash flow assistance by converting to monthly GST reporting

- Businesses on a quarterly reporting cycle can opt into monthly GST reporting in order to get quicker access to GST refunds they may be entitled to.

Other measures

- Remitting interest and penalties, incurred after 23 January 2020, that have been applied to tax liabilities.
- Affected businesses can enter into low interest payment plans to settle their ongoing and existing tax liabilities.

ATO: frequently asked questions

In addition to the administrative measures announced, the ATO has released guidance dealing with practical issues emerging as a result of COVID-19. The guidance is provided in the form of [questions and answers](#), which will be updated regularly. Some of the key issues address are summarised below.

Employers and employees

The guidance for employers and employees deals with circumstances where employees are required to remain in Australia, or remain outside Australia, for longer periods than originally intended due to the impacts of COVID-19 on travel.

In summary, the ATO has indicated that it would not expect an employee's Australian tax obligations should change, if they are required to spend more time in Australia but would ordinarily reside outside Australia, or spend more time outside Australia and ordinarily reside in Australia, provided they intend to return to their ordinary residence as soon as they are able to.

- This means for Australian based employees:
 - They remain subject to Australian income tax; and
 - All employers are expected to continue to withhold and remit Australian PAYG withholding income tax from salary and wages paid to those employees and continue to make Australian superannuation contributions for the benefit of those employees, as if the employees were still in Australia.
- Conversely for foreign-based employees working temporarily in Australia 'for some weeks or months':
 - They remain non-resident if they ordinarily reside overseas and intend to return home as soon as they are able to;
 - Salary related to working in Australia **for less than three months** will not be taxable in Australia (longer periods up to 183 day could also be exempt, where there is an applicable double tax agreement);
 - Foreign employers will not be expected to register for PAYG withholdings merely because a foreign employee is now working in Australia, provided the employee intends to leave before 30 June 2020.

There is no change in superannuation obligations. This means employers are expected to make superannuation contributions for employees working in Australia or overseas, unless a relevant exemption applies.

FBT

There is also guidance on the application of the 'medical emergency' FBT concessions for travel and accommodation where for example the employees were located in a high-risk area and have been relocated or required to self-isolate.

The ATO has clarified that emergency accommodation, food, transport or other assistance provided to employees affected by COVID-19 in addition to their salary or wages will generally be exempt from FBT, if the benefit is provided for their immediate relief. This may also include:

- Temporary emergency meals, food supplies and accommodation for employees stranded overseas due to travel restrictions;
- Flights for employees posted overseas to return to Australia.

Exemptions from FBT for emergency health care provided to employees only applies to healthcare treatment provided:

- By an employee of yours (or an employee of a related company),
- On your premises (or premises of the related company), or
- At or adjacent to an employee's worksite.

FBT will apply to payments made by the employer for their employees' ongoing medical or hospital expenses. However, the cost for transporting their employee from the workplace to seek medical assistance is exempt from FBT.

Home office expenses and other fringe benefits

The guidance relating to the increased working from home circumstances are two-fold, covering both employees (income tax) and employers (FBT).

For employees, the ATO has clarified that they may claim a tax deduction for the running expenses incurred in connection with increased working from home, such as expenses associated with heating, cooling and lighting in the work area, phone and internet and other running expenses.

The guidance for employers clarifies that the provision of other benefits to employees in addition to their salary and wages such as laptops, portable printers or other portable electronic devices to enable them to work from home or from another location will usually be exempt from FBT if they are used primarily for the purposes of the employee's employment. The minor benefits exemption may apply for minor, infrequent and irregular benefits of less than \$300.

Employers will also not have to pay FBT where they have borne non-refundable costs for employees to attend events that have been cancelled because of COVID-19. According to the ATO, this is an arrangement between the employer and event organisers, and no fringe benefit has been provided.

However, if the employee was liable to pay for their attendance at the event which was cancelled, and the employer reimbursed them for the costs they incurred, the employer may have to pay FBT as they are providing an expense payment benefit - unless the otherwise deductible rule applies.

International tax

The international tax Q&A matters to date address the increased risk of Australian residency or permanent establishment status for foreign incorporated companies.

With respect to tax residency, a foreign incorporated company will be an Australian resident if it carries on business in Australia, and it has Central Management and Control (CMAC) in Australia. The general ATO position on this can be found at [Taxation Ruling TR 2018/5](#) and [PCG 2018/9](#). As a general matter, the holding of Board meetings in Australia may result in the company being an Australian resident for Australian tax purposes.

The ATO has indicated that where a foreign incorporated company holds board meetings in Australia, or directors attending board meetings from Australia, and the only reason for this is because of impacts of COVID-19, the ATO will not apply compliance resources to determine if CMAC is in Australia.

In addition, the ATO has indicated that the impacts of COVID-19 will not, in itself, result in a foreign incorporated company having an Australian permanent establishment if it meets all the following:

- The foreign incorporated company did not have a permanent establishment in Australia before the impacts of COVID-19.
- There are no other changes in the company's circumstances.
- The unplanned presence of employees in Australia is the short-term result of them being temporarily relocated or restricted in their travel as a consequence of COVID-19.

It is expected that the ATO will continue to issue further guidance as there are additional developments with respect to COVID-19.

Goods & Services tax

The Goods & Services Tax (GST) guidance from the ATO relates to the implications of cancelled events on which GST has been collected and paid to the ATO.

Taxpayers who have provided their customers with a reimbursement due to such cancelled events can make a decreasing adjustment to reduce the amount of GST payable in their next activity statement. However, the claim cannot be made until the customer has been refunded or reimbursed, either through a monetary payment in money, the setting off of mutual liabilities or the issuing of a voucher.

State government measures

Victoria

- **Full payroll tax waiver for 2019-2020:** Small and medium businesses with a payroll of less than \$3 million will have their 2019-2020 payroll tax waived. The eligibility threshold applies to each employer, so any member of a group that pays taxable wages of less than \$3 million per annum will be eligible. Payroll tax already paid for 2019-2020 will be refunded. Payroll tax returns must still be lodged for the remainder of 2019-2020.
- **Payroll tax deferral for first quarter of 2020-2021:** Small and medium businesses with a payroll of less than \$3 million will be able to defer paying their payroll tax for the first three months of 2020-2021 until 1 January 2021.
- **Deferral of 2020 land tax:** Eligible small businesses will be able to defer paying their 2020 land tax until after 31 December 2020. Payment will be required in full by 31 March 2021. To be eligible, a landowner must have at least one non-residential property and total taxable landholdings below \$1 million.

Other measures to support Victorian businesses and jobs include:

- A \$500 million *Business Support Fund* to provide support to businesses in most-affected sectors (e.g. hospitality, tourism, accommodation, retail, arts and entertainment), particularly those businesses that are too small to benefit from the payroll tax measures.
- Small businesses and affected venues in the hospitality sector will have their 2020 liquor licensing fees waived. Businesses that have already paid their 2020 fees will be reimbursed.
- Commercial tenants in government buildings will be able to apply for rent relief.
- The Government will pay all outstanding supplier invoices within five business days.
- A hotline for businesses dealing with challenges posed by the COVID-19 outbreak, to provide information about support services, including those available through Business Victoria to help businesses develop business continuity and recovery plans, and how to access financial support available through the national stimulus package.
- A \$500 million *Working for Victoria Fund* to help workers who have lost their jobs find new employment, including work cleaning public infrastructure or delivering food.

Announcements/further details about these measures can be viewed [here](#), [here](#) and [here](#).

New South Wales

- Businesses with total group Australian taxable wages of up to \$10 million will have their **annual payroll tax liability reduced** by 25% when the annual reconciliation is lodged (due by 28 July 2020).
- **Increase in payroll tax threshold brought forward:** The proposed increase of the payroll tax threshold to \$1 million (currently \$900,000) will be brought forward 12 months and apply from 1 July 2020.
- **Fees/charges waiver:** A range of unspecified fees and charges will be waived for small businesses including bars, cafes, restaurants and trade persons.

Other measures to support NSW businesses and jobs: \$1 billion dollars has been allocated by the government to:

- Employ additional cleaners of public infrastructure such as transport assets, schools and other public buildings.
- Bring forward maintenance on public assets including social housing and crown land fencing
- Bring forward capital works and maintenance.

Announcements/further details about these measures can be viewed [here and here](#).

Queensland

Payroll tax relief

Businesses that pay \$6.5 million or less in Australian taxable wages (on a grouped or ungrouped basis), may apply for the following relief:

- A refund of their payroll tax paid or payable for January and February 2020,
- A payroll tax holiday (i.e. no payroll tax to be paid) for three months (March through May), and
- Deferral of payroll tax for the remainder of the 2020 calendar year.

Businesses that pay more than \$6.5 million in Australian taxable wages (on a grouped or ungrouped basis), and have been negatively affected (directly or indirectly) by COVID-19, can apply for:

- A refund of their payroll tax paid or payable for January and February 2020, and
- Deferral of payroll tax for the 2020 calendar year.

A business is regarded as directly or indirectly affected by COVID-19 if their current turnover, profit, customers, bookings, retail sales, supply contracts or other factors are negatively affected compared with normal operating conditions.

Matters for eligible businesses to note:

- Applications for the payroll tax refund/holiday must be made before 31 May 2020
- Payroll tax returns will still need to be lodged as normal (without paying)
- Businesses that have already applied for the previously announced six-month deferral, do not need to reapply – the deferral period will be extended
- Deferred payroll tax will be payable by 14 January 2021.

Other measures to support Queensland businesses and jobs

Other measures announced by the Queensland government include:

- COVID-19 jobs support loans, i.e. low interest loans of up to \$250,000, with an initial 12-month interest free period, to help businesses retain staff and maintain operations
- Sole traders and small and medium businesses that consume less than 100,000 kilowatt hours will receive a \$500 rebate off energy bills
- Businesses that rent premises from the Queensland government may be eligible for rent relief (eligibility details pending)
- Waiver of liquor licencing fees for venues that have had to close due to COVID-19
- Market diversification and resilience grants are available for Queensland agriculture, food and fishing exporters and their critical supply chain partners, and industry organisations working with exporters.

Announcements/further details about these measures, and applications for payroll tax relief and deferral, can be viewed [here](#), [here](#) and [here](#).

Western Australia

- **Increase in payroll tax threshold brought forward:** The proposed increase of the payroll tax threshold to \$1m (currently \$950,000) will be brought forward 6 months and will apply from 1 July 2020.
- **Payroll tax payment deferral:** Small and medium businesses (annual Australian wages of less than \$7.5 million) which have been directly affected by COVID-19 compared to normal operating conditions can apply to defer payments and lodging returns to 21 July 2020.
- **One-off grant of \$17,500:** A one-off grant of \$17,500 will automatically be paid to businesses with annual Australian taxable wages between \$1 million and \$4 million. For grouped businesses, a single grant will be paid to the designated group employer. Grants will be paid from July 2020.

Announcements/further details about these measures can be viewed [here](#) and [here](#).

Tasmania

• **Payroll tax waivers/rebate**

- Payroll tax liabilities for the four months March – June 2020 will be waived for businesses in the hospitality, tourism and seafood industries, and returns will not be required to be lodged for March, April and May.
- Other businesses with payrolls of up to \$5 million that have been affected by COVID-19 will be able to apply to have their payroll tax waived for April – June 2020.
- A 12-month payroll tax rebate will be available for businesses that employ a person aged 24 or younger between April and December 2020.

• **Business fees:** The following fees will be waived/reduced:

- Annual fees and levies for abalone divers and for rock lobster, giant crab and fin fishers will be waived for 12 months.
- Tourism operator lease, license and entry fees in relation to national parks and wilderness areas in Tasmania will be waived for April – June 2020.
- Liquor licencing fees for 2020 will be reduced by 50% and all application fees for 2020 waived, back dated to 1 January 2020.

Other measures to support Tasmanian businesses and jobs include:

- **Small business grants program – new apprentices/trainees:** One-off grants of \$5,000 will be available for small businesses that hire an apprentice or trainee in the tourism, hospitality, building and construction, or manufacturing industries.
- **Interest-free loans:** The Tasmanian government will offer loans to businesses in the hospitality, tourism, seafood production and exports sectors with a turnover of less than \$5 million, for the purpose of purchasing equipment or restructuring business operations. The loans will be interest-free for three years.
- **Government payables and receivables – small business cashflow assistance:** Unless otherwise required by contractual arrangements, payment terms for payments **by** government agencies will be reduced from the normal 30 days to 14 days and extended to 90 days from 30 days for payments **to** government agencies.

Announcements/further details about these measures can be viewed [here](#), [here](#) and [here](#).

Northern Territory

To date the Northern Territory (NT) government has not announced any tax related relief measures. However, several measures directly or indirectly supporting NT businesses and jobs have been announced.

- **Business Improvement Scheme:** Eligible businesses can apply for an initial \$10,000 grant for upgrades or equipment for their business, with an additional \$10,000 available if they contribute \$10,000 of their own money. The upgrades and purchases must be from another NT business.
- **Business Structural Adjustment package:** Eligible businesses can apply for assistance to adjust to the “100 person” rule (i.e. for non-essential indoor gatherings), or to establish or upgrade their online presence to adjust to changing consumption behaviours.
- **Immediate Works Grant scheme reintroduced:** Eligible incorporated not-for-profit and community organisations and clubs can apply for grants up to \$50,000 to undertake repairs, renovations and upgrades to their premises or facilities. Organisations who contribute their own money can receive an additional grant of up to \$50,000 (i.e. paid on a dollar-for-dollar matching basis for organisation contributions up to \$50,000).
- **Home improvement grant scheme:** Payment of a \$6,000 grant for NT homeowners and landlords who contribute \$2,000 toward home improvements; payment of a \$4000 grant if a \$1,000 homeowner/landlord contribution is made.
- **Freezing all government fees and charges:** Fees and charges (i.e. including those for electricity, water and car registration) will be frozen until 1 July 2021.

Announcements/further details about these measures can be viewed [here](#).

Australian Capital Territory

- For businesses that own their premises, a rebate of \$2,622 (i.e. the fixed charge component) will be provided for 2019-2020 commercial rates for properties with an average unimproved value below \$2 million
- For businesses that lease their premises:
 - Six-month waiver of payroll tax (for April to September 2020) for employers in the hospitality, creative arts and entertainment industries.
 - Licenced venues will receive a 12-month waiver of their food business registration and on-licence liquor licencing fees from 1 April 2020, and outdoor dining fees for 2020-2021 will be waived. Where food business registration has been prepaid for more than one year in advance, an extra 12 months will be added to the license.
 - \$750 rebate for small business owners with electricity usage below 100 megawatts per year, to assist with power costs (automatically applied to next electricity bill).
- From 1 July 2020, interest-free deferral of 2020-2021 payroll tax will be available to businesses of all kinds with group annual Australian taxable wages below \$10 million. Interest free treatment will apply to deferred amounts paid before 1 July 2022.

Other measures to support ACT businesses and jobs include:

- ACT government agencies prioritising the processing of development applications; more staff assessing development applications.
- Immediate expenditure of \$20 million on infrastructure projects and maintenance on local schools, roads, and public transport.
- Freezing of several government fees and charges, including the fire and emergency services levy, public transport, vehicle registration and parking fees.
- Additional funding for dead tree removal and replacement to redeploy existing government contractors affected by event cancellations.
- An extra \$500,000 of grants funding for the arts sector.
- Additional funding to support ACT clubs to keep staff employed at the award rate.
- Expedited payment of invoices by ACT government agencies to provide cashflow support for small to medium businesses.

Announcements/further details about these measures can be viewed [here and here..](#)

South Australia

The following measures have been announced:

- A \$350 million construction-focused [economic stimulus package](#). Projects to be funded under the package must meet certain criteria, including the ability to start works within a short period of time, be labour-intensive and/or require significant local purchasing of materials, services and supplies.
- Small businesses in South Australia will be given **up to \$5,000 in state government funding** to hire trainees/apprentices, as part of a \$12 million skills package to boost local jobs. Details can be viewed [here](#).

Deloitte is committed to helping businesses manage and mitigate their risks, and recover from the COVID-19 pandemic.

Visit our external site, [Combating Covid-19 with Resilience](#), for articles and thought leadership pieces from around the world on a variety of matters including 'Evaluate working capital and liquidity requirements', 'COVID-19: Managing supply chain risk and disruption' and 'Practical workforce strategies that put your people first'.

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