ASHTON WHEELANS

CANTERBURY EMPLOYERS' CHAMBER OF COMMERCE

Support for Small and Medium Sized Businesses

On the 15th of April and the 1st of May the New Zealand Government announced another two rounds of initiatives to help businesses manage the impacts of COVID-19. Included in the two announcements were changes to tax legislation and the release of an Inland Revenue administered interest free loan scheme. Our specialist Accounting and Advisory partner, Ashton Wheelans, have prepared a summary of relevant points from the two announcements for small and medium sized businesses.

Interest Free Loan Scheme

Small and medium sized businesses will be able to access interest free loans with a maximum limit of $100,000 depending on their size. To be eligible businesses must:

- Have less than 50 full-time equivalent (FTE) employees
- Have a decrease in revenue of 30% or more
- Be a viable business

All eligible businesses will be able to access a base loan amount of $10,000 and an additional $1,800 for every FTE employee up to a maximum of 50 employees. For example, a business who employees 5 full time employees will be eligible for $19,000 ($10,000 base plus $1,800 x 5). Loans will be interest free for the first year, and then an interest rate of 3% will be applied with a maximum term of 5 years. Repayments will not be required in the first two years. The loan scheme will be administered by the IRD with applications opening on the 12th of May. Businesses will need to declare themselves as viable when applying.

Tax Loss Carry Back Scheme

Businesses expecting to make a loss in either the 2019/20 year or the 2020/21 year would be able to estimate the loss and use it to offset profits in the past year. Prior to this, businesses were only able to offset losses against future profits. In other words, they could carry the loss back and have historical tax refunded. Businesses will not need to wait until a forecasted loss is realised via a tax return as they can estimate their loss and have tax refunded on this basis. Specific details of the scheme are still to be released.

Changes to Tax Loss Continuity Rules

Our current ownership continuity threshold is one of the strictest in the world. The Government is aiming to encourage new investment in businesses by relaxing these rules. Currently companies are required to have at least 49% continuity of shareholding to carry losses forward from one tax year to the next, this means if a company has more than a 51% change in ownership it cannot keep any existing tax loss. At the time of writing the revised threshold has not yet been released. Further details on this rule will change will be available in the coming weeks.

Greater Flexibility for Business Taxpayers in Respect to Deadlines

Inland Revenue will be given greater flexibility to modify timeframes or procedural requirements for taxpayers who are impacted by COVID-19. An amendment will introduce a discretionary power into the Tax Administration Act 1994 to allow Inland Revenue to provide an extension to due dates and timeframes, or to modify procedural requirements set out in the Revenue Acts. This could include, for example, extending deadlines for filing tax returns and paying provisional and terminal tax. At this stage the power will be time-limited for a period of 18 months and will apply to businesses affected by COVID-19.

Relevant Inland Revenue Statements on the Impact of COVID-19

The IRD have also released statements on the impacts of COVID-19 on certain areas of tax law. Two common areas are FBT on motor vehicles during level 4 lock down and the tax treatment of reimbursing employees for working from home.

FBT on Motor Vehicles

Inland Revenue has been asked to confirm whether FBT applies to motor vehicles during the Level 4 lockdown period ("Level 4"). An FBT liability arises if a motor vehicle is "made available" to an employee for their private use. Some taxpayers have suggested that during Level 4, a motor vehicle is not "made available" for an employee's private use because the only private use permitted is local travel to access essential services. The Commissioner's view is that a motor vehicle will attract FBT in the usual way during Level 4. The Commissioner acknowledges that opportunities for an employee to use a vehicle for private use have been restricted under Level 4, to accessing essential services or working in an essential business. However, the test is whether the vehicle has been "made available" for private use, not whether any private use has occurred. The case law confirms that a vehicle is "made available" to an employee when they have access to the vehicle and permission to use it for private purposes. Actual use is irrelevant for FBT purposes. Therefore, if a vehicle is "made available" to an employee for their private use an FBT liability will arise and the Level 4 days must be included in the FBT calculation for the relevant period.

Working from Home Allowance

I have decided to pay an allowance to my employees to recognise the inconvenience of working from home for an extended period. Is that amount subject to tax?

Yes. This would be taxable as an amount derived by the employee in connection with their employment. If the payment is to cover costs incurred by the employee. The payment would be subject to PAYE and deductible to the employer.

Reimbursing Employees for Working from Home Costs

For tax purposes, how should I treat a payment to employees to cover costs arising from working from home?

If all the requirements below are satisfied, then the payment may be treated as:

- tax-free (as exempt income) for the employee.
- not subject to PAYE.
- deductible for the employer.

The requirements are that:

- an employer makes a payment to an employee or on account of an employee.
- the payment be for expenditure or a loss incurred by the employee, or for expenditure or a loss that is likely to be incurred by the employee.
- the expenditure or loss be incurred by the employee in deriving their employment income and not be private or capital in nature (however, this capital limitation does not apply to an amount of depreciation loss).
- the payment is made because the employee is doing their job and the employee is deriving employment income from doing their job.
- the expenditure or loss be necessary in the performance of the employee's job.

Costs could include:

- increased electricity and other utility costs arising from working from home.
- the cost of telecommunication tools and usage plans.
- the cost of acquiring home office furniture or equipment.

These are general guides only, for advice on your specific situation contact your accountant.

If you would like to discuss your business specific challenges, please get in touch with The Chamber on 0800 50 50 96 or by emailing info@cecc.org.nz.