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COVID-19 NewsBrief -15 April 2020

The Government has announced new measures to provide relief for small and medium-sized businesses during the COVID-19 pandemic. The latest innovations continue their focus on cash flow and business confidence.

As yet the detail has not been made available, but we understand that the legislation necessary to give effect to these changes will be passed on 27 April, to be applied retrospectively. At that time the details will no doubt become clearer.

Temporary Tax Loss Carry-Back

A tax loss carry-back scheme that will allow businesses to access their previous tax payments as cash refunds has been proposed. This means a forecast loss in the current financial year can be offset against the profit from last year.

Taxpayers expecting to make a loss in either the 2019/20 year or the 2020/21 year will be able to estimate the loss and use it to offset profits in the past year. That means they can carry the loss back one year.

Taxpayers do not need to re-estimate their provisional tax before 7 May as the proposed law change is likely to make it possible for re-estimation after the date of the final instalment. This will allow more time to work out any estimated loss for the 2020/21 income year.

Tax Loss Continuity Changes

This measure is aimed at allowing companies to raise capital to facilitate immediate survival and future growth. Presently if a company has more than a 51% change in ownership it cannot keep its tax losses.

The proposed change contemplates the introduction of a 'same or similar business' test meaning that the business must continue in the same or a similar way it did before ownership changed, rather than being focussed on a specified shareholding continuity threshold.

Being able to carry forward losses could make the business more valuable to investors

Deadline Extensions

The proposed changes will give the IRD discretion to change dates, timeframes and procedural requirements outlined in a number of Acts administered by them. This provision will apply to businesses and individuals affected by COVID-19.

As yet there are no details around what extensions may be granted and for how long but understand that some could be for up to 18 months.

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Use of Money Interest

IRD has issued general guidance on the requirements taxpayers must meet in order to be eligible for a remission of UOMI on tax obligations due after 14 February 2020.

They have made it quite clear that this is not a two-year holiday from paying tax – nor is it a free-for-all concession. The conditions set by IRD for someone to qualify for the remission are:

- Physically unable to make their payment when it's due because of COVID-19; or
- Struggling financially to pay on time because of the economic impact caused by the outbreak.

IRD also requires taxpayers seeking relief to both contact them and pay the tax they owe "as soon as practicable". As more detail around this policy emerges, we will advise accordingly, but if you have any questions in the meantime please do reach out to us.

Business Consulting Package

$25 million has been earmarked for business consultancy support over the next 12 months. This is aimed at helping businesses to get sound advice around business survival and growth, at no cost to the business. The Government envisages that such advice could range from human resources advice to business continuity planning to financial management. Again, no details around applying for the consulting assistance package or its criteria have been released, but we will keep you updated as they come to hand.

Commercial Rent Relief

The matter of ongoing rental payment obligations continues to create uncertainty. Some commercial tenants have clauses available in their leases that allow for a fair proportion of rent and outgoings to be withheld while they are in lockdown and not able to carry on their businesses from the leased premises.

As we have opined in previous releases, the problem is that there is no definition of "fair proportion" and the legal opinions we have seen on the matter are not unanimous.

Landlords retain the right to re-enter premises or to terminate leases through non-payment of rent, but caution has been urged in the exercising of these rights where such non payment is attributable to the COVID-19 lockdown measures.

The latest government announcement indicates that there will be an extension of the time frames before landlords are able to exercise their rights of re-entry, termination and mortgagee sale options.

These changes will apply not only to leased premises but also to leased goods.

We reiterate our previous recommendations in respect of lease payments, namely that lessors and lessees should strive to reach a mutually acceptable, sensible and fair arrangement that will remain in place for the duration of the lockdown.

Stage 3 and Beyond

We have been asked what we think the effects will be and what lockdown measures will look like when the country moves down from alert level 4. Regrettably, like so much else in these troubled times, we simply do not know the answer to that question.

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To provide any opinions now would be speculative but we will monitor the announcements closely and provide our analysis to you as soon as we have more information. The Prime Minister has indicated announcements with more clarity after Cabinet meets on 20 April and we will keep you posted then.

At Ecovis KGA we're privileged to have a team of experts with in-depth knowledge to assist with many of the challenges which businesses are facing right now. Please remember the firm is fully operational and we are here to help in any way we can - we are just a phone call or email away.