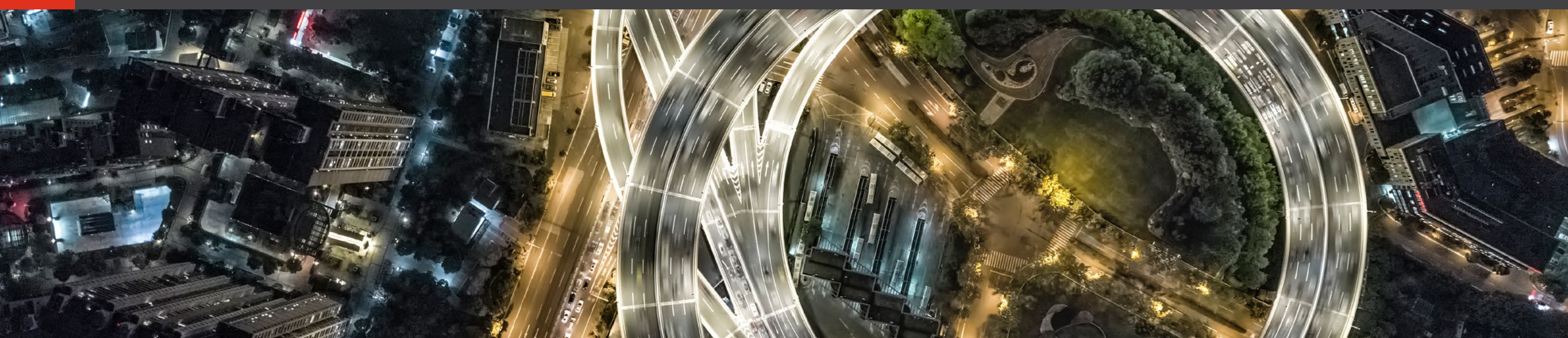
Further tax changes to support taxpayers affected by COVID-19

➨ **Tax Tips Alert July 2020**



Recently, the Commissioner of Inland Revenue (the Commissioner) was given discretionary powers to temporarily change due dates, timeframes, and procedural requirements in tax legislation for businesses and individuals affected by the COVID-19 pandemic. These discretionary powers are intended to give the Commissioner greater flexibility to apply tax legislation in a fair and practical way for taxpayers. The Commissioner can now extend a due date, deadline or time period and modify an administrative requirement. Under the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020, Inland Revenue must publish any variation to the tax rules made with these new powers. This Tax Tips Alert outlines the effect of the eight variations released so far.

At the time of writing, the Commissioner of Inland Revenue has released eight variations, which extend the time to:

20/01	Elect to be a look through company (LTC)
20/02	Allocate timber income (supplemented by COV 20/06)
20/03	Elect to change a taxable period for goods and services tax (GST) purposes
20/04	Write off a bad debt
20/05	Make tax pooling transfers
20/06	Allocate timber income
20/07	File statements for research and development (R&D) loss tax credits
20/08	Meet the definition for a finance lease.

Taxpayers may choose to apply a variation by taking a tax position that reflects the change. Otherwise, the taxpayer will be treated as being subject to the normal rules.

Tax pooling transfers (20/05)

Under the usual rules, a taxpayer may use a tax pooling account to satisfy a tax obligation. The Income Tax Act 2007 requires the transfer request to be made on or before either 75 or 76 days after the terminal tax date.

This variation extends that timeframe to 365 days after the terminal tax date for the 2019 income tax year. This variation applies to transfers of amounts to meet provisional or terminal tax obligations, or use-of-money interest on these amounts. The taxpayer must have entered a contract with a tax pooling intermediary on or before 21 July 2020 to apply this variation and must also have experienced a "significant decline" in revenue.

This variation recognises that some taxpayers have encountered cash flow difficulties as a result of the pandemic in circumstances where they otherwise would have used tax pooling.

Disposal of timber (20/02 and 20/06)

These variations affect a taxpayer's allocation of timber income to previous years. Under the usual rules, a taxpayer may allocate timber income between the income year in which it is derived and any one or more of the previous three income years. Under the usual rules, the taxpayer must ask the Commissioner within one year after the end of the income year in which timber income is derived to allocate timber income.

The second variation (20/06) extends the time to make such an allocation to 31 July 2020 for income derived in an income year which ended between 25 March 2019 and 30 June 2019 (this range was extended by a second variation as noted above).

For the purposes of this variation, timber income includes (1) income from the disposal of timber (2) income from the right to take timber and (3) income from the disposal of land with standing timber.

Research and development loss tax credits (20/07)

This variation extends the deadline to file a statement in relation to R&D loss tax credits and repayment tax for the 2019 income tax year to 31 August 2020.

A taxpayer may only apply this variation if the impact of the pandemic has had a material impact on their ability to file the statements on time. Under the usual rules, a statement must be filed by the earliest day on which the taxpayer files a return of income for the relevant tax year, or the last day for filing such a return.

Finance leases (20/08)

A "finance lease" is treated as such for tax purposes where the lease of an asset has a term of 75% of the asset's useful life or more.

In the current circumstances, parties to a lease agreement may have agreed to extend lease terms. This means some operating leases could be reclassified as a finance lease for tax purposes.

Therefore, to avoid additional unexpected compliance costs, the time period in the definition of "finance lease" has been extended by 365 days.

To apply this variation, the lease must have been entered into before 14 February 2020 and must be extended before November 2020. The variation is not limited to leases that would have otherwise ended during that period. Further, the lessee must have been prevented or discouraged from returning the lease asset at the intended maturity date, or because the lessee's business has experienced a significant decline in actual or predicted revenue as a result of the pandemic.

Bad debts (20/04)

This variation extended the time available to write off a bad debt for the 2020 income year to 30 June 2020. While this date has passed, taxpayers who have not filed their 2020 tax return may still be able to claim a deduction for bad debts written off in the extension period but which relate to the 2020 income year.

At the time of writing, this variation was incorrectly paraphrased on Inland Revenue's website which contains a link to the official variation. Despite the ambiguous wording, it is important to note that "impacts of COVID-19" refers to the effect on the physical writing-off of the bad debt, not the cause of bad debt itself. In other words, a bad debt incurred due to COVID-19 before the balance date may be written off, where the reason it was not actually written off on the taxpayer's accounts was related to COVID-19.

One further condition for applying this variation is that the taxpayer only considers information that was relevant at the end of the 2020 income tax year when deciding to write off the bad debt. It is not permissible to write off a bad debt in the 2020 income tax year under this extension with the benefit of information from the intervening period.

This extension will be useful for taxpayers with March balance dates, as it will give a three-month extension to physically write off bad debts. However, this variation will not apply for taxpayers with balance dates of December 2019 or earlier, nor to those with balance dates of June 2020 or later.

Change of GST taxable period (20/03)

As background, the Goods and Services Tax Act 1985 states a taxpayer can apply to have a one-month taxable period for GST. Ordinarily, this change takes effect at the end of the taxable period in which the taxpayer makes the application.

This variation applies to taxpayers who had a six-month taxable period ended 31 March 2020, but who did not apply to change to a one-month taxable period before 31 March 2020. It extended the time to make an application to change the GST taxable period to 30 June 2020, varying s 15D(2) of the GST Act 1985 for those taxpayers who choose to apply it.

Look through companies election (20/01)

This variation extended the deadline to file an election to be an LTC to 30 June 2020. This varies s HB 13(3)(b) of the Income Tax Act 2007 (ITA), which states that an election must be provided before the last day for filing an income tax return.

This change recognised that the pandemic has affected the ability of some businesses to meet certain statutory deadlines.

This content is accurate as at 1 July 2020. This content is for general information purposes only, and should not be used as a substitute for consultation with our professional advisers. If you wish to understand the potential implications of COVID-19 for your business, please get in touch. To find an adviser and to see more of our general guidance for businesses, please visit our COVID-19 webpage at www.pwc.co.nz/COVID-19.

What to do if you are affected

The Minister of Revenue has described the many changes as part of the "single biggest Government support package to businesses via the tax system in modern New Zealand history". It is likely that further support will be announced in the future as the Commissioner's expanded discretionary powers can be used at any time between 17 March 2020 and 30 September 2021 (and this can be extended by Order in Council).

Please contact your usual PwC adviser to find out how these new measures can help you and your business.

Contributors

Geof Nightingale | Partner
+64 21 940 346 | geof.d.nightingale@pwc.com

Michael Hansby | Associate
+64 21 154 3917 | michael.w.hansby@pwc.com

pwc

© 2020 PricewaterhouseCoopers New Zealand. All rights reserved. 'PwC' and 'PricewaterhouseCoopers' refer to the New Zealand member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.