



# Tax Tips

## March 2021

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# Recap of Government COVID-19 support measures

It has now been over a year since New Zealand's first case of COVID-19. Since then, the country has experienced a six-week lockdown (with Auckland going back into Alert Level 3 restrictions another three times after that) and billions of dollars of financial support has been made available by the Government.

While it is great to see the Government's commitment to providing continued support to businesses, we recognise that it can be difficult to keep up with all the different schemes that are available. With that in mind, we have summarised some of the key support available to businesses and the relevant eligibility criteria. If you require any more detailed assistance, please contact your usual PwC adviser.

## Wage subsidy

The wage subsidy was one of the first support payments to be announced by the Government on 17 March 2020. Since then, more than \$14 billion of wage subsidy payments have been made to businesses across the country. The wage subsidy is intended to ensure that businesses can continue to employ and pay their staff despite any reduction in revenue resulting from increases to the COVID-19 Alert Level system.

Following the recent rise in Alert Levels in February 2021, a further extension of the Wage Subsidy was announced for March 2021. The **March 2021 Wage Subsidy** is available for businesses that experienced (or expect to experience) a **40% decrease in revenue** over any consecutive 14-day period between 28 February and 21 March 2021. The revenue decrease is to be determined by reference to a typical 14-day period between 4 January and 14 February 2021 (i.e. in the six weeks before the change in Alert Levels).

Eligible businesses may receive a two-week lump sum at the rate of:

- \$585.80 a week for people working 20 hours or more; and/or
- \$350 a week for people working less than 20 hours.

Applications for the March 2021 Wage Subsidy opened on 4 March 2021 and the first payments were made by the Government from 8 March.

For further detail on the scheme, please refer to our earlier [Tax Tips publication](#) on this topic.



### Transfer pricing, COVID-19, and the wage subsidy

There is no doubt that the COVID-19 pandemic has, and will continue to, disrupt a variety of multinational operations. We've seen businesses experiencing reduced profitability and disruption to supply chains. This creates risks that should be considered in reviewing and adjusting transfer pricing policies in terms of:

- the return derived by low risk entities
- intercompany funding and the adverse impact on creditworthiness
- related party contracts terms
- royalties paid with respect to intellectual property, and
- the treatment of government subsidies.

As with all transfer pricing matters, an analysis of the specific facts and circumstances is crucial in determining the arm's length outcome.

Of particular focus is the treatment of the wage subsidy received by foreign-owned New Zealand groups.

The Government has stressed the importance of ensuring that the subsidies received by New Zealand businesses are claimed and used appropriately. The Ministry of Social Development has been auditing certain wage subsidy applications and, **soon, Inland Revenue will be reviewing whether the wage subsidy has been treated appropriately from a transfer pricing perspective.**

Inland Revenue is strongly of the view that the benefit of the wage subsidy should be fully retained in New Zealand in the absence of clear evidence that independent parties would have done otherwise. In practice, this will generally require the wage subsidy to be treated as an extraordinary item for transfer pricing purposes and therefore excluded when calculating the value of any related party transactions.

Inland Revenue has recently released [guidance](#) detailing its position and issued educational letters to a number of foreign-owned New Zealand groups that have been identified as claiming the wage subsidy.

Given the treatment of the wage subsidy is reasonably novel, there is an appreciation that many businesses may have taken varying positions when calculating the value of related party transactions where wage subsidies have been received. We are working through a range of examples with Inland Revenue in real time to understand practically what this means and potential solutions where financial statements have been finalised and, in some cases, filing positions already taken.





In the light of the upcoming wage subsidy reviews signalled by Inland Revenue, it is critical to consider the treatment of the wage subsidy in your transfer pricing calculations. To mitigate the risk of transfer pricing adjustments and potentially double taxation, this should be done prior to filing your income tax return.

If you haven't yet considered the interaction between the wage subsidy and your cross-border related party transactions, come and talk to us! Our transfer pricing team has worked through a range of examples and can help you get it right.

### COVID-19 Resurgence Support Payment (CRSP)

The CRSP was more recently introduced by the *Taxation (COVID-19 Resurgence Support Payments and Other Matters) Act 2021*. The CRSP supplements the wage subsidy (which is available only under Alert Levels 3 and 4). The CRSP is intended to help businesses meet one-off costs or address short-term cash flow issues arising from the increase in COVID-19 Alert Levels. In its guidance, Inland Revenue has specified that the payment must be used to cover business expenses such as wages and fixed costs.

The CRSP scheme can be activated by way of an Order in Council if there is an increase in Alert Levels from Alert Level 1 to Alert Levels 2 and higher for a period exceeding seven days. To qualify, businesses must have experienced a minimum 30% decrease in revenue, based on a comparison to a seven-day period at Alert Level 2 or higher with the typical weekly revenue in the six weeks preceding the increase in Alert Levels. Applicants are required to have been in business for at least six months prior to the application. Charities and not-for-profit organisations may also be eligible to receive the CRSP if they meet the same requirements.

Successful applicants are eligible for a one-off support payment in the form of a grant. The amount of the payment is the lesser of:

- \$1,500 per applicant plus \$400 per full-time equivalent (FTE) up to a cap of 50 FTEs\*; or
- four times the amount the applicant declares their revenue has declined by\*\*.

\*Although the payment is capped at 50 FTEs, businesses with more than 50 FTEs may still apply.

\*\*Passive income such as interest, dividends, and rent are excluded for the purposes of calculating the decrease in revenue.

The Commissioner of Inland Revenue is required to publish the eligibility requirements, including setting out the circumstances when a recipient of the CRPS grant is required to repay the grant. This is currently found on Inland Revenue's [website](#).

Finally, we note that the CRSP is subject to GST. GST-registered businesses that are required to repay the grant should be able to recover the GST component of the CRSP in their GST returns as an input tax deduction.

The last day to apply for the CRSP in relation to the 15 February 2021 Alert Level increase is 22 March. Applications are now open for the alert level increase of 28 February.

## Small Business Cashflow (Loan) Scheme (SBCS)

The SBCS has been in place since May 2020, with minor technical amendments to the scheme made in December 2020. The SBCS is intended to provide assistance with cash flow needs for small businesses whose trading activity has been significantly impacted by COVID-19.

To be eligible for a loan under the SBCS, the business must meet the following requirements:

1. Have 50 or fewer full time employees (assessed on a group basis).
2. Have been in business for 6 months.
3. Experienced a 30% or more decline in actual or predicted revenue over a 14-day period in the six months before applying, compared with the same 14-day period of a year ago (note that different eligibility criteria can apply for seasonal businesses or newly established organisations).
4. Declare they are a “viable” business or organisation.
5. Confirm they will use the funds for core operating costs.
6. Enter into a loan contract with the Government.

Successful applicants are entitled to receive a loan of up to \$100,000 (with the exact amount determined by reference to the number of employees). The loan may only be used to meet core operating costs such as rent, utilities, and supplier payments. The loan is subject to a 3% interest rate. However, the loan is interest-free if repaid within one year. The maximum term of the loan is five years, and no repayments are required for the first two years. Shareholders or owners of the business are not permitted to draw down the loan as a shareholder loan or dividend.

To demonstrate that the business is “viable”, certain evidentiary requirements must be met. These include financial statements or forecasts which show that the organisation will be able to pay its debts as they fall due within the next 18 months.

Applications for the scheme opened on 12 May 2020 and initially remained open through to 31 December 2020. This has since been extended, and applications can now be submitted **up to and including 31 December 2023**. Inland Revenue is aiming to make payment of the loan funds within 5 working days of an application.





## Leave Support Scheme (LSS) and Short-Term Absence Payments (STAP)

The **LSS** is intended to provide financial support for businesses to pay workers who are required to stay away from work to self-isolate and cannot work from home.

To qualify, the relevant employee(s) must have tested positive for COVID-19 or is otherwise required to self-isolate (e.g. because they are a close contact of someone who has tested positive).

A two-week lump payment is made to the employer calculated as follows:

- \$585.80 a week for people working 20 hours or more; or
- \$350 a week for people working less than 20 hours.

The **STAP** is financial support for businesses to pay employees in situations where they are not required to self-isolate for 14 days, but may be required to stay at home (and unable to work from home) while waiting for a COVID-19 test result. The STAP is a single one-off payment of \$350 for each eligible employee. Businesses may only apply once in any 30-day period for the STAP.

## Tax measures

We also note that a number of business-friendly amendments to tax laws were enacted by the *COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020*. Although these amendments may not necessarily be directly related to the immediate impacts of COVID-19, they were introduced with a view towards stimulating greater economic activity in response to the economic downturn that was projected to occur at the time. Inland Revenue also has discretion to waive both penalties and use-of-money interest in relation to late payments of tax if the late payments arose due to the impacts of COVID-19.

We summarised these key tax changes to date in our [May 2020 Tax Tips](#).

One of the amendments brought in by the *COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020* was greater discretion for the Commissioner of Inland Revenue to vary a requirement under an Inland Revenue Act if necessary to address the effects of COVID-19. Under this provision, Inland Revenue issued a number of variations throughout 2020 that extended several administrative deadlines. These were summarised in our [July 2020 Tax Tips](#).

## Customs and trade

The *Customs and Excise Regulations 1996* was amended in May 2020 to allow duty payers whose ability to pay on time has been adversely affected by COVID-19 to receive a remission or refund on late payment penalties and compensatory interest.

The New Zealand Customs Services is also open to instalment payment arrangements for late payment of excise duties.





# Cross-border related party payments (imported hybrid mismatch) – draft documentation requirements issued

Inland Revenue has released an [exposure draft](#) setting out the steps Inland Revenue expects taxpayers to have undertaken before claiming deductions for cross-border related party payments.

In most scenarios, Inland Revenue's expectation is that the New Zealand taxpayer will obtain a **written statement from the group's head office tax function** confirming the steps that have been taken to ensure that there are **no imported hybrid mismatches** that have been **funded by the New Zealand payer**.

An imported hybrid mismatch is where a deductible payment is made by a New Zealand taxpayer to another group company and those same funds are used directly or indirectly within the wider global group to fund a hybrid mismatch (either within the global group or between a member of the global group and a third party).

The exposure draft outlines that there may be severe consequences if the taxpayer is unable to produce this confirmation, within a reasonable timeframe, upon request - in particular, this could include the **loss of any ability to challenge the denial of a deduction by the Commissioner**.

Whilst these requirements are still in draft, if finalised in the current form, these requirements will apply from the 2019-20 income tax years. For many, these returns are due for filing this month, by **31 March 2021**. PwC has submitted on the current exposure draft - in particular, PwC has requested that Inland Revenue consider deferring the application date to the 2020-21 income tax year and that there is acknowledgement in the exposure draft that there are alternative ways that taxpayers can appropriately document their position. However, in the meantime, PwC's view is that **taxpayers should look to have a documented position / statement on their files that can be seen to satisfy the aim of the exposure draft requirements outlined** as soon as possible.



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