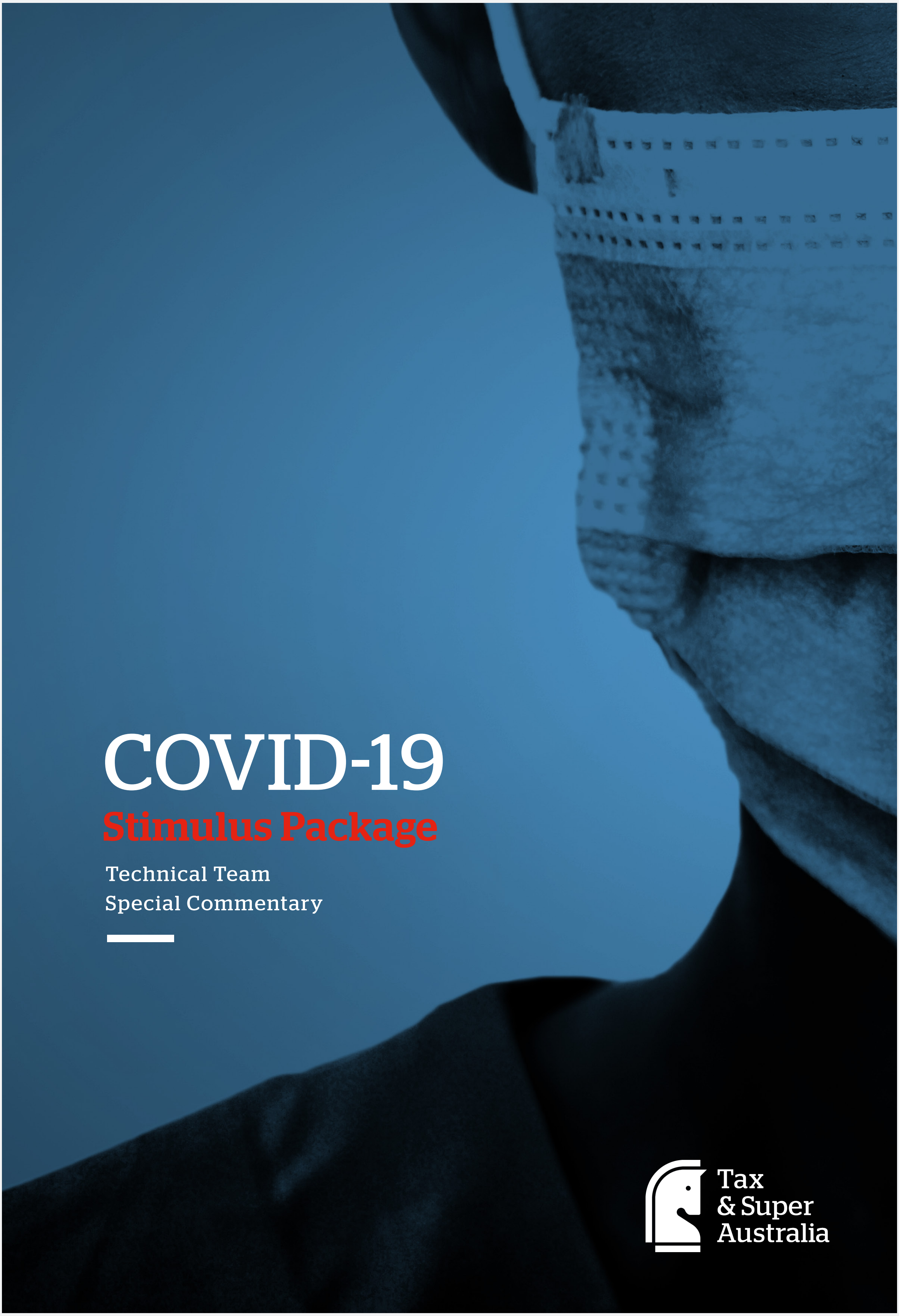

COVID-19

Stimulus Package

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Special Commentary

Tax & Super Australia

The Federal Government coronavirus stimulus package

A legislative package has been pushed through Parliament which contains a number of bills that implement the government's economic response to the spread of the coronavirus.

The relief package of bills consisted of eight separate bills. The legislation has now passed both houses of parliament.

Instant asset write-off

The income tax law was amended to increase the cost threshold below which certain business entities can access an immediate deduction for the full cost of depreciating assets from $30,000 to $150,000. This change to the rules is only available from 12 March 2020 to 30 June 2020. For an asset to be eligible for the instant asset write-off it must be first used for a taxable purpose in the period 12 March 2020 to 30 June 2020. Alternatively, the asset must be installed and ready for use in that period.

In the Federal Budget announced on 2 April 2019, the Federal Government extended the instant asset write-off to businesses that have a turnover of between $10 million and $50 million. This was in addition to small businesses that have a turnover of less than $10 million.

The instant asset write-off will now also apply to businesses that have an aggregated turnover of less than $500 million. However, it will only apply to these businesses for the period 12 March 2020 to 30 June 2020.

This means that there will be two periods that accountants/tax agents must think about in relation to purchases of assets in the year ending 30 June 2020. The first period is from 1 July 2019 to 11 March 2020. Eligible assets costing less than $30,000 can be written off completely in this period by businesses that have an aggregated turnover of less than $50 million. From 12 March 2020 to 30 June 2020, eligible assets costing less than $150,000 (GST exclusive), can be written off by businesses that have an aggregated turnover of less than $500 million.

It should be noted that from 1 July 2020, the instant asset write-off threshold will revert to its original level of $1,000 and will only be applicable for businesses with an aggregated turnover of less than $10 million. Accordingly, the coronavirus measures offer a strong incentive for most businesses to obtain a significant tax deduction that will no longer exist in the new financial year.

Accelerated depreciation

This provides an incentive for businesses with aggregated turnovers of less than $500 million a year to invest in plant and equipment and other depreciating assets.

Specifically, the bill amends the income tax law to temporarily allow businesses with aggregated turnovers of less than $500 million in an income year to deduct capital allowances for depreciating assets at an accelerated rate of 50% of the cost of an asset. This will be in addition to the normal depreciation that is claimed on the cost of the asset after deducting the 50% amount.

Here is an example taken from the information Treasury has placed on its website.

> **Example**
>
> A business has a turnover of $200 million in the 2020-21 income year. On 1 July 2020, the business purchases an asset for $1 million. Normally, a 30% depreciation rate would apply to this asset. Under the new rules, the business can claim a depreciation deduction of $650,000 in the 2020-21 income year. This consists of 50% of the asset's value ($500,000) plus 30% of the remaining $500,000 ($150,000) under existing depreciation rules.

Here is another example from the Treasury information. In this example the small business simplified depreciation pool is used.

> **Example**
>
> A company has a turnover of $8 million (therefore a small business). It purchases on 1 May 2020 an asset for $260,000. The instant asset write-off is not applicable because the cost of the asset is more than $150,000. Under existing rules, depreciation at the rate of 15% would be claimed on the asset. Under the new rules, depreciation of (260,000 x 50%) + (130,000 x 15%) = $149,500 is claimable as a tax deduction.

Generally, to be eligible to apply the accelerated rate of deduction, the depreciating asset must satisfy a number of conditions, including that the asset:

- is new and has not previously been held by another entity (other than as trading stock or for testing and trialling purposes);
- is an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules; and
- is first held, and first used or installed ready for use, for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

Boosting cash flow for employers

The cash flow boost provides for payments to support employers by boosting their cash flow. Another intention with this measure is to encourage the retention of employees through any follow-on downturn.

Undoubtedly, this part of the stimulus package is the most confusing. Unfortunately, it also has the potential to be rorted by unscrupulous people. That is why the measures contain an anti-avoidance provision.

Before explaining the detail, here are a number of statements about this part of the package that will assist with explaining certain aspects of what is known as the "cash flow boost".

1. There are two rounds of cash flow boost.
2. The second cash flow boost is determined from the amount of the first cash flow boost.
3. The amount of the first cash flow boost is determined by the amount of withholdings from (broadly) wages or the minimum cash flow boost payment ($10,000), whichever is larger.
4. The maximum first cash flow boost amount is $50,000.
5. If eligible, the minimum "payment" to an entity will be $20,000 and the maximum will be $100,000 from the two cash flow boost payments.
6. The "payments" are actually credits given to the entity through the lodgement of activity statements. If the credits exceed the amount owing, a refund will be paid by the ATO to the entity within 14 days of the due date for lodgement of the activity statement.
7. The payments will operate in a different manner for monthly and quarterly lodgers of activity statements. The examples below will explain this.

Entities are eligible to receive the first cash flow boost for a period if:

- the entity makes a payment that is subject to withholding obligations (broadly, a payment of wages or salary or similar remuneration), whether or not any amount is actually withheld, in the period; and
- either:
    - the entity was a small or medium business entity (aggregated turnover under $50 million), or a charity or other not-for-profit entity of equivalent size, for the most recent income year of the entity for which an assessment of income tax has been made; or
    - the ATO is reasonably satisfied that it is likely that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period; and
- the entity has notified the Commissioner of their entitlement in the approved form (this is an activity statement); and
- the period is one of the following:
    - the quarters ending in March 2020 or June 2020 for quarterly payers; and
    - the months of March 2020, April 2020, May 2020 or June 2020 for monthly payers; and
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
    - held an ABN on 12 March 2020; and
    - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows (this notice appears to be either activity statements or an income tax return); and
- the entity (or an associate or agent of an entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or increase the entitlement of the entity to the first cash flow boost.

With regard to the timing of the cash flow boost, the following is information that is taken directly from the Government's fact sheet "Cash flow assistance for business".

The first part of this quote refers to the first cash flow boost.

> "The Boosting Cash Flow for Employers payment will be applied to a limited number of activity statement lodgements. The ATO will deliver the payment as a credit to the entity upon lodgement of their activity statements. Where this places the entity in a refund position, the ATO will deliver the refund within 14 days.

Type of lodger	Eligible period	Lodgment due date
Quarterly	Quarter 3 (January, February and March 2020)	28 April 2020
	Quarter 4 (April, May and June 2020)	28 July 2020
Monthly	March 2020	21 April 2020
	April 2020	21 May 2020
	May 2020	22 June 2020
	June 2020	21 July 2020

> Quarterly lodgers will be eligible to receive the payment for the quarter ending March 2020 and June 2020.
>
> Monthly lodgers will be eligible to receive the payment for the March 2020, April 2020, May 2020 and June 2020 lodgments. To provide a similar treatment to quarterly lodgers, the payment for monthly lodgers will be calculated at three times the rate (300 percent) in the March 2020 activity statement.
>
> The minimum payment [$10,000] will be applied to the entities' first lodgement.

[This next part of the quote refers to the second cash flow boost].

> The additional payment [the second cash flow boost] will be applied to a limited number of activity statements. Where this places the entity in a refund position, the ATO will deliver the refund within 14 days."

Type of lodger	Eligible period	Lodgment due date
Quarterly	Quarter 4 (April, May and June2020)	28 July 2020
	Quarter 1 (July, August and September 2020)	28 October 2020
Monthly	June 2020	21 July 2020
	July 2020	21 August 2020
	August 2020	22 September 2020
	September 2020	21 October 2020

> Quarterly lodgers will be eligible to receive the additional payment for the quarters ending June 2020 and September 2020. Each additional payment will be equal to half of their total initial Boosting Cash Flow for Employers payment (up to a total of $50,000).
>
> Monthly lodgers will be eligible to receive the additional payment for the June 2020, July 2020, August 2020 and September 2020 lodgments. Each additional payment will be equal to a quarter of their total initial Boosting Cash Flow for Employers payment (up to a total of $50,000).

Examples of how the cash flow boosts operates

These examples are somewhat based on the examples in the "Cash flow assistance for business" fact sheet.

Example 1

Tim employs two casual workers in his business. No withholding is made from the wages of the two employees because they don't earn enough. Tim lodges his BAS for the quarter ending 31 March 2020 on 16 April 2020.

Tim will receive a credit of $10,000 from the ATO in relation to his March BAS. This is the first cash flow boost payment. He will receive the minimum payment ($10,000) because his withholdings from wages (nil) are less than $10,000. If a refund is due to Tim, it will be paid within 14 days of the due date for lodgement of the BAS.

Tim will also receive the second cash flow boost payment. This is equal to the first cash flow boost payment of $10,000. However, this is received in two credits of $5,000. The first of these credits will be applied when he lodges his June 2020 BAS. The second of these credits will be applied when he lodges his September 2020 BAS.

Example 2

Jack employs some people and in the quarter ending 31 March 2020, he makes withholdings from wages of $22,000 and lodges his quarterly BAS with that information.

Jack will receive a credit of $22,000 from the ATO in relation to his March BAS. His withholdings are above the minimum amount of $10,000, and less than $50,000, so he receives 100% of his withholdings as a credit.

In the June 2020 BAS, Jack has withholdings of $15,000. He will also receive a $15,000 credit for this amount as part of the first cash flow boost. His total cash flow boost is $37,000, which is below the maximum amount of $50,000.

With regard to the second cash flow boost, Jack will also receive credits for $37,000. Half of this ($18,500) will be received as a credit in the June 2020 BAS. The other half will be received as a credit in the September 2020 BAS.

Example 3

Sarah lodges her BAS on a monthly basis. The withholdings for her employees in the months of January 2020, February 2020 and March 2020 were $13,000, $15,000 and $11,000 respectively. When she lodges her March 2020 BAS, she will be entitled to a credit of $33,000 (3 x $11,000). Her credit is based on multiplying the March withholdings amount by 3. The January and February withholdings are irrelevant.

In her April 2020 BAS, the withholdings total $9,000. She is then entitled to a $9,000 credit. The total so far of the first cash flow boost is $42,000, which is under $50,000.

In her May 2020 BAS, the withholdings are $13,000. She will receive a credit of $8,000. This is because she has reached the maximum cash flow boost of $50,000.

Sarah will be entitled to a further $50,000 of credit under the second cash flow boost. This will come to her by way of a credit for $12,500 for each of the June 2020, July 2020, August 2020 and September 2020 BASs.

The anti-avoidance provision

All accountants/tax agents should be aware that the cash boost legislation contains an anti-avoidance provision. This is in subparagraph 5(1)(g) of the Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Act 2020. This states:

> "neither the entity nor any associate or agent of the entity has entered into or carried out a scheme or part of a scheme for the sole or dominant purpose of achieving any of the following:
>
> 1. making the entity entitled to the cash flow boost for the period;
> 2. increasing the amount of the cash flow boost to which the entity is entitled (disregarding this paragraph) for the period."

We propose a "look in the mirror" test in relation to any scheme you are entering into in relation to this cash boost. Look yourself in the mirror and ask yourself "Is what you are doing for the sole or dominant purpose of obtaining the cash flow boost?" If the answer is "yes", then don't do it!

Tax and Super Australia are being inundated with requests for information about those owners of businesses (through trusts or otherwise) that don't pay themselves a wage. Instead they take trust distributions, receive dividends or simply draw on the profits of the business. What is their position under the cash boost legislation?

The cash flow boost is only available in respect of (broadly) employment related withholdings. We consider there is a strong risk of falling foul of the anti-avoidance provision if someone who has not been paid salary or wages for a long period is now put on wages.

The ATO is very aware that there are schemes being entered into to take advantage of this very generous Government handout. We expect the ATO to make a public statement about these schemes.

Superannuation contributions

Employers should note that there are no changes to the requirement to make superannuation contributions in accordance with the Superannuation Guarantee law.

Superannuation Guarantee Charge Amnesty

The SGC amnesty period started on 6 March 2020 and will conclude at midnight on 7 September. No change has been made to this period. It should be remembered that payments after 7 September 2020 in relation to the SGC amnesty will not be tax deductible.

Stimulus payments to households

Also provided for is the payment of the first economic support payment of $750 to approximately 6.6 million Social Security and Veterans' income support recipients, Farm Household Allowance recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card.

There will also be a second economic support payment of $750 to the above people who receive a qualifying payment or hold a qualifying concession card on 10 July 2020. This second payment will not be paid to a person who receives, on 10 July 2020, the new Coronavirus supplement detailed below.

Additional supplement for income support recipients

The stimulus package also amends the Social Security legislation to provide financial assistance to people who are affected by the COVID-19 crisis. Australians can claim Jobseeker payment or Youth Allowance (other) if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument. If qualified, a person receives the current rate of Jobseeker payment or Youth Allowance (other) along with a fortnightly supplement of $550 or such other amount determined by legislative instrument.

The supplement is also available to existing recipients of Jobseeker payment, Youth Allowance (other), Parenting Payment, Special Benefit, and the Farm Household Allowance. The Minister for Families and Social Services may extend the supplement to other social security payments by legislative instrument should a need arise.

The supplement is available for an initial six month period, commencing on 27 April 2020. The Minister for Families and Social Services may also extend the six-month period and extend the supplement to other social security payments, depending on how the current crisis unfolds.

Recipients of Jobseeker payment or Youth Allowance (other) (which includes new and existing recipients) and Parenting Payment are also exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion periods. The exemption from the newly arrived resident's waiting period also applies to special benefit. The supplement and exemptions also apply to recipients of the Farm Household Allowance.

Note that the date of effect for these measures is 27 April.

Early release of superannuation

The stimulus legislation amends the SIS Regulations and RSA Regulations to allow individuals affected by Coronavirus to have up to $10,000 released from their superannuation or retirement savings account on compassionate grounds. Each person is permitted to have up to two releases – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year. The amounts that are released are not subject to tax.

From mid-April eligible individuals will be able to apply online through myGov to access up to $10,000 of their superannuation before 1 July 2020. They will also be able to access up to a further $10,000 from 1 July 2020 until 24 September 2020.

The legislation states that to apply for the determination for such early releases, the person must satisfy any one of the following requirements about their employment or business status.

At the time the person applies for the determination, they are:

- unemployed;
- eligible to receive a Jobseeker payment, Youth Allowance, Parenting Payment (which includes the single and partnered payments) or special benefit under the Social Security Act; or
- eligible to receive the Farm Household Allowance; or

On or after 1 January 2020 the person:

- was made redundant;
- their working hours were reduced by 20% or more; or
- if the person is a sole trader – their business was suspended or there was a reduction in their turnover of 20% or more.

Superannuation drawdowns

The bill amends the SIS Regulations and RSA Regulations to give effect to the Government's announced measure to reduce the minimum payment amounts for account-based pensions (and for the equivalent annuity products) by half for the 2019-20 and 2020-21 financial years.