

# COVID-19 Legislation review note - INTERNAL USE ONLY

Measure	What is it and how do our clients get it?
<b>Instant Asset write-off</b>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>The amendments complement the existing instant asset write-off for small and medium sized business entities.</li> <li>Increases the instant asset write off threshold to \$150,000 (up from \$30,000) for new or second-hand assets first used or installed ready for use, and amounts included in the second element of cost from 12 March 2020 to 30 June 2020.</li> <li>Expands access to include businesses with an aggregated turnover of less than \$500 million (up from the existing cap of \$50 million).</li> </ul> <p><b>Who is eligible?</b></p> <p><b><u>Small business entities (aggregated turnover less than \$10m)</u></b></p> <ul style="list-style-type: none"> <li>Small business entities can claim an immediate deduction for depreciating assets costing less than \$150,000, provided the asset is first acquired at or after 7.30 pm (ACT) on 12 May 2015, and first used or installed ready for use on or after 12 March 2020, but before 1 July 2020.</li> <li>If the balance of a small business entity's general small business pool is less than \$150,000 at the end of an income year that ends on or after 12 March 2020 but before 1 July 2020, the small business entity can claim a deduction for the entire balance of the pool.</li> </ul> <p><b><u>Medium business entities (aggregated turnover of \$10m or more but less than \$500m for that income year)</u></b></p> <ul style="list-style-type: none"> <li>Medium business entities can claim an immediate deduction for depreciating assets that cost less than \$150,000, provided the asset was first used, or installed ready for use, for a taxable purpose in the period beginning 12 March 2020 and ending on the 30 June 2020.</li> <li><i>Note: the car cost limit still caps the deduction available for a car purchase.</i></li> </ul> <p><b>How do you get it?</b></p> <ul style="list-style-type: none"> <li>Where you are eligible for the instant asset write off, you should include a tax deduction in the FY20 income tax return. For businesses that are paying tax, the instant asset write-off should result in a cash benefit on lodgement of the tax return.</li> </ul> <p><b>Other notes</b></p> <ul style="list-style-type: none"> <li>From 1 July 2020, the instant asset write-off is due to revert to \$1,000 and will only be available for small business entities.</li> </ul>
<b>Additional depreciation on new assets</b>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>Temporarily allows businesses with aggregated turnovers of less than \$500 million in an income year to deduct capital allowances for depreciating assets at an accelerated rate (depending on whether an entity is using the simplified rules for capital allowances for small businesses)</li> <li>Entities that do not use the simplified depreciation rules may deduct:             <ul style="list-style-type: none"> <li>50% of the cost (or adjustable value where applicable) of the depreciating asset held and used or installed ready for use between 12 March 2020 and 30 June 2021 (inclusive); and</li> <li>the decline in value of the depreciating asset that would otherwise apply under Division 40, but broadly after reducing the cost (or adjustable value where applicable) of the asset by 50%.</li> </ul> </li> <li>Small business entities that use the simplified depreciation rules may deduct:</li> </ul>

# COVID-19 Legislation review note - INTERNAL USE ONLY

	<ul style="list-style-type: none"> <li>○ 57.5% (rather than 15%) of a qualifying depreciating asset added to the general small business pool where the asset is held and used or installed ready for use between 12 March 2020 and 30 June 2021 (inclusive).</li> <li>• The accelerated depreciation deduction applies in one income year only, being the income year that the assets are first used or installed ready for use for a taxable purpose.</li> </ul> <p><b>Who is eligible?</b></p> <ul style="list-style-type: none"> <li>• Available to entities with an aggregated turnover of less than \$500 million for the income year.</li> </ul> <p><b>Asset conditions (qualifying asset)</b></p> <ul style="list-style-type: none"> <li>• The asset is new and has not previously been held (and used or installed ready for use) by another entity (other than as trading stock or for testing and trialling purposes).</li> <li>• Must be an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules.</li> <li>• The asset must be first held, and first used or installed ready for use for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).</li> </ul> <p><b>Asset exclusions</b></p> <ul style="list-style-type: none"> <li>• A commitment to the asset was entered into before 12 March 2020;</li> <li>• The asset is a second-hand asset.</li> <li>• Division 40 does not apply to the asset.</li> <li>• The asset would not be in Australia.</li> <li>• Furthermore, the measure does not apply to assets under subdivision 40-E of the ITAA 1997, regarding low-value and software development pools or subdivision 40-F, regarding certain primary production depreciating assets (such as water facilities, horticultural plants, fodder storage assets and fencing assets).</li> </ul> <p><b>How do you get it?</b></p> <ul style="list-style-type: none"> <li>• For eligible assets you should include a tax deduction in the relevant tax return for that financial year.</li> </ul> <p><b>Other notes</b></p> <ul style="list-style-type: none"> <li>• Taxpayers wishing to take advantage of the depreciation measures should first ensure there is adequate cash flow due to the delay between acquiring the asset and receiving any tax benefit.</li> </ul>
<p><b>Cashflow boost payments</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>• Two separate 'boost' cash payments between \$10,000 - \$50,000 (total \$20,000 - \$100,000) depending whether an entity is small PAYG withholder or Medium/Large PAYG withholder:</li> </ul> <p><b><u>First payment</u></b></p> <ul style="list-style-type: none"> <li>○ If small withholder – minimum \$10,000, maximum \$50,000 paid on March 2020 BAS. Capped at PAYG withholding for Jan-Mar 2020 period. Payment on June 2020 BAS equal to PAYG withholding for June 2020 quarter. Total first payment capped at \$50,000;</li> <li>○ If medium or large withholder – minimum \$10,000, maximum \$50,000 paid on March 2020 BAS. Capped at 3 times PAYG withholdings for month of March 2020. Payments on Apr, May &amp; June BAS equal to PAYG withholdings for month. Total first payment capped at \$50,000;</li> </ul> <p><b><u>Second payment</u></b></p>

# COVID-19 Legislation review note - INTERNAL USE ONLY

	<ul style="list-style-type: none"> <li>○ If small withholder – payment equal to total ‘first payment’. 50% paid on June 2020 BAS, balance on Sept 2020 BAS;</li> <li>○ If medium or large withholder – payment equal to total ‘first payment’. 25% paid in each of June to September 2020 BAS.</li> </ul> <ul style="list-style-type: none"> <li>• The ATO can determine how an amount is ‘paid’ to an entity. This can be by crediting against a running balance account or tax account of the entity. Generally, the payment would offset other amounts on the BAS and other amounts outstanding with any excess refunded;</li> </ul> <p><b>Who is eligible?</b></p> <ul style="list-style-type: none"> <li>• The ATO will use their information to determine eligibility. This will generally be the latest income tax return lodged which indicates it was a small or medium entity.</li> <li>• Available to all ‘business’ taxpayers less than \$50m aggregated turnover. Does not exclude ‘large’ withholders;</li> <li>• Must have had an ABN as at 12 March and earned income from business in the period from 1 July 2018. The ATO will only require the entity to have lodged one BAS with income or the 2019 income tax return before 12 March 2020 to prove this;</li> <li>• There is no grouping of related entities (except for \$50m aggregated turnover test). Each PAYG payer in a group can access the payment;</li> <li>• Definition of business taxpayer under Div 328. This generally excludes partners in a partnership (the partnership can be eligible though);</li> </ul> <p><b>How do you get it?</b></p> <ul style="list-style-type: none"> <li>• Lodgement of the BAS generally triggers eligibility. ATO uses other information including tax and prior BAS lodgements to determine eligibility. The ATO is updating information on administration <a href="https://www.ato.gov.au/Business/Business-activity-statements-(BAS)/In-detail/Boosting-cash-flow-for-employers/">https://www.ato.gov.au/Business/Business-activity-statements-(BAS)/In-detail/Boosting-cash-flow-for-employers/</a>;</li> <li>• Large withholders treated as ‘monthly’ payers. Payment triggered by BAS lodgement (based on GST)</li> </ul> <p><b>Other notes</b></p> <ul style="list-style-type: none"> <li>• A cash boost payment is not assessable and not exempt income of the entity.</li> <li>• Further detail on the legislation mechanics are below</li> </ul>												
<p><b>\$750 payments to social security recipients</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>• Two \$750 payments to recipients of eligible social security payments;</li> <li>• The first payment is made on or after 31 March 2020; and</li> <li>• The second payment will be made from 13 July 2020.</li> </ul> <p><b>Who is eligible?</b></p> <ul style="list-style-type: none"> <li>• An individual must be resident in Australia and be eligible to receive one of the following payments or concessions at any time in the period 12 March 2020 to 13 April 2020 (for the first payment) and/or 10 July 2020 (for the second payment):</li> </ul> <table border="1" data-bbox="607 1270 1960 1396"> <tr> <td>Age pension</td> <td>Widow B pension</td> <td>Newstart allowance</td> </tr> <tr> <td>Disability support pension</td> <td>ABSTUDY</td> <td>Jobseeker payment</td> </tr> <tr> <td>Parenting payment</td> <td>Austudy</td> <td>Youth allowance</td> </tr> <tr> <td>Wife pension</td> <td>Bereavement allowance</td> <td>Partner allowance</td> </tr> </table>	Age pension	Widow B pension	Newstart allowance	Disability support pension	ABSTUDY	Jobseeker payment	Parenting payment	Austudy	Youth allowance	Wife pension	Bereavement allowance	Partner allowance
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# COVID-19 Legislation review note - INTERNAL USE ONLY

Sickness allowance	Special benefit	Widow allowance
Family tax benefit	Carer allowance	Pensioner concession card
Commonwealth Seniors Card	Veteran Service pension & ors	DVA PCC holders & ors
Veteran card holders	Farm allowance holders	

*There are some common allowances here such as Family Tax benefit or Seniors cards which people may not have signed up to. Therefore, it is important that people assess their eligibility.*

- A person who is entitled to the \$550 fortnightly Coronavirus supplement cannot also receive the second payment

#### **How do I get it?**

- The payments are administered by Services Australia and department of veteran affairs and will be paid automatically to eligible recipients;
- Where you are eligible for a payment or concession but have not yet lodged a claim, you should do this before 13 April 2020.

## Apprentices, trainees and aviation sector

#### **What is it?**

- This legislation amends Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* to establish legislative authority for government spending to assist the targeted groups (employers of apprentices and trainees, as well as the Aviation industry).

#### **Who can benefit?**

- Employers of apprentices and trainees;
- Australian Apprenticeship Support Network providers;
- Group Training Organisations; and
- Participants in the Australian aviation sector.

#### **Apprentices and trainees package:**

##### **What can they get?**

- Wage subsidies as part of the Australian Apprenticeships Incentives Program to support small businesses (less than 20 full time staff) to retain their existing apprentices and trainees; and any businesses and Group Training Organisations to re-engage apprentices and trainees displaced from small businesses.
- The subsidy is for 50% of an apprentice or trainee's wage from 1 January 2020 to 30 September 2020.
- Funding to Australian Apprentice Support Network providers under their existing contractual arrangements with the Department to support implementation of the initiative.
- Funding to the National Apprentice Employment Network to co-ordinate reemployment of displaced apprentices throughout their network of host employers across Australia.

##### **What are the eligibility requirements?**

- The wage subsidy to retain an apprentice or trainee is only available to small businesses for apprentices/trainees employed by 1 March 2020 (with evidence of wages paid).
- The wage subsidy to re-employ is only available in respect of apprentices/trainees who were employed at 1 March 2020 and have been released from their apprenticeship/traineeship by their employer.

##### **How do they get it?**

# COVID-19 Legislation review note - INTERNAL USE ONLY

	<ul style="list-style-type: none"> <li>– Details of how to claim the subsidies and further eligibility criteria will be set out in the Australian Apprenticeships Incentives Program Guidelines, which will be amended. We are not yet aware of the timing of this update.</li> <li>– Measure will be administered by the Department of Education, Skills and Employment.</li> </ul> <p><b>Aviation Sector Relief:</b></p> <p><b>What can they get?</b></p> <ul style="list-style-type: none"> <li>– Initially, available assistance will include reimbursing airlines aviation fuel excise, providing a rebate to airline operators for domestic aviation screening costs and additional funding for infrastructure implementation costs and operational costs associated with enhanced security requirements at regional airports.</li> </ul> <p><b>What are the eligibility requirements?</b></p> <ul style="list-style-type: none"> <li>– Eligibility requirements are essentially just production of the invoice for the eligible costs.</li> </ul> <p><b>How do they get it?</b></p> <ul style="list-style-type: none"> <li>– Measure will be administered by the Department of Infrastructure, Transport, Regional Development and Communications.</li> </ul>
<p><b>Corporations Act exemptions</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– The Treasurer can exempt classes of persons from compliance with certain provisions of the Corps Act or regulations, or modify the operation of those provisions, for the period beginning when the Bill receives royal assent and ending 6 months after this time. The instrument can be in force for a maximum of 6 months but can be extended within the 6 month period.</li> <li>– The Treasurer can make the exemption or modification if they are satisfied that it would not be reasonable to expect persons in that class to comply because of the impact of COVID-19; or it is necessary to facilitate continuation of business or mitigate the economic impact of circumstances relating to COVID-19.</li> </ul> <p><b>What may it apply to?</b></p> <ul style="list-style-type: none"> <li>– It is considered this may apply to matters such as convening general meetings which would be in violation of Australia’s social distancing requirements.</li> </ul>
<p><b>Childcare</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– To obtain subsidised fee relief for families with children enrolled in approved child-care there is currently a limit of 42 days absence (for which a reason and evidence is not required). The amendments allocate extra allowable absence days, for an event or circumstance specified in the Minister’s rules which is intended to help offset absence days taken as a result of the impact of the Coronavirus.</li> <li>– The amendments also allow the Minister to prescribe circumstances where a child-care provider does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness to the child, their parents or carers.</li> <li>– They amendments also waive the current obligation of child-care providers duty to enforce payment of gap fees for a particular event or circumstance for the period specified by the Minister. This will enable services to provide fee relief to families, for example, in the circumstance where a service is forced to close on and for the period of public health advice. In this situation, services cannot charge more than the hourly session fee that was charged immediately before the period specified by the Minister.</li> </ul>

# COVID-19 Legislation review note - INTERNAL USE ONLY

<b>Superannuation drawdown</b>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>- The superannuation rules require an individual to drawdown a minimum percentage from their superannuation/allocated pension account each financial year based on their age, and the closing balance of their super fund as at the previous 30 June. Under the temporary reduction measure which will apply to the 2020 and 2021 financial years, this minimum percentage has been reduced by half.</li> <li>- This measure will benefit retirees by providing them with more flexibility as to how they manage their superannuation assets and pension drawings during the current period of market volatility.</li> </ul>
<b>\$550 per fortnight income assistance</b>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>- This measure will allow Australians who are financially impacted by the Coronavirus to claim jobseeker payment or youth allowance if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument to be made by the Minister for Families and Social Services.</li> <li>- There will also be a \$550 supplement paid to new and existing recipients of youth allowance and job seeker payments for an initial six-month period (or an extended period if determined by the Minister)</li> <li>- The amendments also exempt new and existing jobseeker payment, youth allowance and parenting payment recipients from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and the seasonal worker preclusion period.</li> <li>- The Farm Household Support Act will also be amended to exempt recipients from certain waiting periods.</li> </ul>
<b>Relief for financially distressed individuals and businesses</b>	<p><b>What is it?</b></p> <p>The following measures will apply for a period of 6 months.</p> <ul style="list-style-type: none"> <li>- Increase the minimum amount of debt required to be owed before a creditor can initiate bankruptcy proceedings against a debtor from \$5,000 to \$20,000.</li> <li>- Extend from 21 days to 6 months:             <ul style="list-style-type: none"> <li>o the time by which a debtor must respond to a bankruptcy notice and</li> <li>o the timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor's petition.</li> </ul> </li> <li>- Increase the statutory minimum for a creditor to issue a statutory demand to a debtor from \$2,000 to \$20,000 and extend from 21 days to six months the period in which the debtor can respond to a statutory demand</li> <li>- Provide relief for directors from their personal duty to prevent insolvent trading provided:             <ul style="list-style-type: none"> <li>o the debt is incurred in the ordinary course of the company's business;</li> <li>o the debt is incurred during the six month period starting on the day the new law commences, and</li> <li>o the debt is incurred before the appointment of an administrator or liquidator to the company.</li> </ul> </li> </ul>
<b>Early release of superannuation</b>	<p><b>What is it?</b></p>

# COVID-19 Legislation review note - INTERNAL USE ONLY

	<ul style="list-style-type: none"> <li>- This amends the SIS and RSA regulations to allow individuals affected by the coronavirus to access part of their superannuation early. \$10,000 may be withdrawn in the 2020 financial year and a further \$10,000 in the 2021 year.</li> <li>- The withdrawals will be treated as non-assessable non-exempt income.</li> </ul> <p><b>Who is eligible?</b></p> <ul style="list-style-type: none"> <li>- Applicants must be (at the time of application):             <ul style="list-style-type: none"> <li>o Unemployed</li> <li>o Eligible to receive a jobseeker payment, youth allowance for job seekers, parenting payment or special benefit under the Social Security Act; or</li> <li>o Eligible to receive the farm household allowance</li> </ul>             (note: you do not have to have received a payment yet, you just need to be eligible)           </li> <li>- If the applicant does not meet the above criteria they can still be accepted if (on or after 1 Jan 2020):             <ul style="list-style-type: none"> <li>o They were made redundant; or</li> <li>o Their working hours were reduced by 20% or more; or</li> <li>o If the person is a sole trader, their business was suspended or there was a reduction in their turnover of 20% or more</li> </ul>             (note: the person must compare their current situation to their situation prior to 1 Jan 2020.)           </li> </ul> <p><b>How do they get it?</b></p> <ul style="list-style-type: none"> <li>- Applications will be able to be made online via myGov using the ATO's online services.</li> <li>- Applications to have these funds released must be made within 6 months of this bill receiving royal assent.</li> <li>- There is no evidence or documentation required to substantiate your eligibility, but the Commissioner can revoke his determination to allow the release of funds if it was made in error or based on an incorrect or misleading statement.</li> <li>- If you make an application for an amount less than \$10,000 you cannot then make a second application for the same year for another amount, even if the total is less than \$10,000.</li> <li>- You can nominate more than one account in the same application.</li> </ul>
<p><b>Medicare levy and Medicare levy surcharge thresholds</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>- This increases the thresholds for paying the Medicare Levy and Medicare Levy Surcharge in line with movements in the CPI.</li> </ul> <p><b>Who is eligible and how do they get it?</b></p> <ul style="list-style-type: none"> <li>- This will apply automatically and will be relevant on lodgement of the 2020 tax return</li> </ul> <p><b>Who can benefit and what do they get?</b></p> <ul style="list-style-type: none"> <li>- If you have a low income you may see a reduction in your Medicare Levy payable. The increases to the thresholds are minimal so the benefit will likely also be minimal.</li> </ul>



# COVID-19 Legislation review note - INTERNAL USE ONLY

<p><b>Delaying the intergenerational report until mid-2021</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– The intergenerational report is an assessment of the long-term sustainability of current Government policies and how changes to Australia’s population profile may impact economic growth, workforce and public finances over the next 40 years. The next report was due in 2020, but the coronavirus has made it too difficult to make accurate forecasts, so this schedule delays the report until mid 2021.</li> </ul> <p>No tax implications</p>
<p><b>Deferral of sunseting</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– This allows a relevant minister to delay the automatic repeal of any Act or legislative instrument that was scheduled to ‘sunset’ (automatically repeal) by 15 October 2020. The new sunset date cannot be more than 6 months after the original date. A list of bills that are due to sunset can be found <a href="#">here</a>.</li> </ul> <p>No direct tax implications</p>
<p><b>Other Measures:</b></p> <p><b>Coronavirus SME Loan Guarantee Scheme</b></p> <p><b>ATO tax payments</b></p>	<p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– A maximum \$250,000 of new loans per borrower for a period of up to 3 years (with an initial 6 month repayment holiday period) in the form of unsecured finance (no asset security required).</li> <li>– 50% of these new loans issued will be guaranteed by the Government.</li> <li>– Lenders are being encouraged by the Government to provide facilities that only need to be drawn as required (so interest will only be payable on any amount drawn down).</li> </ul> <p><b>Who is eligible?</b></p> <ul style="list-style-type: none"> <li>– Small and medium entities with turnover up to \$50 million.</li> </ul> <p><b>How do you get it?</b></p> <ul style="list-style-type: none"> <li>– Apply through lending institutions, subject to the lenders’ credit assessment process.</li> <li>– This Scheme is due to commence in early April 2020 and conclude on 30 September 2020.</li> </ul> <p><b>What is it?</b></p> <ul style="list-style-type: none"> <li>– Tax payments due before and after 23 January 2020 will be treated differently by the ATO:             <ul style="list-style-type: none"> <li>○ Due before 23 January 2020:                 <ul style="list-style-type: none"> <li>▪ Cannot defer the original payment due date.</li> <li>▪ Can request remission of GIC from 23 January 2020 to present (i.e. interest charged from the original due date to 23 January 2020 will still apply).</li> <li>▪ Can re-negotiate existing payment arrangements or new interest-free payment arrangements for current ATO liabilities.</li> </ul> </li> <li>○ Due after 23 January 2020:                 <ul style="list-style-type: none"> <li>▪ Can request deferral of payment due dates by up to 6 months.</li> </ul> </li> </ul> </li> </ul> <p><b>Who is eligible?</b></p>



# COVID-19 Legislation review note - INTERNAL USE ONLY

<b>ATO lodgements</b>	<ul style="list-style-type: none"><li>- Any client affected by the Coronavirus pandemic.</li></ul> <p><b>How do you get it?</b></p> <ul style="list-style-type: none"><li>- Call the ATO to discuss your client's situation and preferred arrangement details or upload a message via the ATO Portal</li></ul> <p>No new information is currently available on any automatic lodgement concessions/deferrals. Extensions for any clients with an upcoming lodgement due date should be applied for using the existing deferral processes via the ATO Portal.</p>
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## **Resources:**

[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6521](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6521)

<https://treasury.gov.au/coronavirus/>

<https://www.ato.gov.au/Individuals/Dealing-with-disasters/In-detail/Specific-disasters/COVID-19/>

## **Summary of cashflow boost legislation**

The legislation is a new Act called the Boosting cashflow for employers (Coronavirus Economic Response Package) Bill 2020 (Cth).

The legislation has a separate section for the 'first boost' payment and the 'second boost' payment. The eligibility requirements for the first payment are:

### **The entity must make a 'payment' in the period**

This can be any payment. However, it is only relevant where you need to withhold from the payment (generally as salary & wages). Payment is not defined, but I would think the amount needs to more than an accrual. <review>

### **The entity must withhold from 'payment'**

The entity must only be required to withhold from the payment under 12-B, 12-C or 12-D of the Tax Admin Act. This is generally Salary and Wages and other like payments. It also includes voluntary withholding on payments to contractors.

If there is no withholding liability (due to being under thresholds etc) the entity is still eligible. It only needs to be the type of payment which requires a withholding2.

# COVID-19 Legislation review note - INTERNAL USE ONLY

## The relevant period of the withholding must apply

If the entity is a large or medium withholder, the eligible monthly period are March 2020, April 2020, May 2020 & June 2020

If the entity is a small withholder the eligible quarterly periods are March 2020 & June 2020

## The entity is a small or medium business entity

The definition has two 'limbs':

1. The statutory test; and
2. The Commissioner's 'reasonableness' test

### *Statutory test*

The legislation uses the definition of small or medium business entity in Division 3283. This is:

You carry on a business in the current year (this is modified to treat a not for profit as carrying on a business); and

Your aggregated turnover is below \$50m (the aggregated turnover test is broad).

The definition excludes someone acting in their capacity as a partner in a partnership from being a small business entity.

The aggregated turnover test includes turnover of connected and affiliated entities.

The test is determined on the income year of the last tax return lodged as a notification of whether an entity was a small or medium business entity. If there is no assessment, the statutory test will not apply.

### *The Commissioner's reasonable test*

## COVID-19 Legislation review note - INTERNAL USE ONLY

The Commissioner will reasonably satisfy himself from other information that the entity is eligible if there is no assessment. If the Commissioner makes this assessment the entity will be treated as being eligible. The law is drafted such that the ATO does not need to gather additional information to determine entitlement.

### **The entity notifies the Commissioner in the approved form**

The approved form will generally be the business activity statement or instalment activity statement for the relevant period. The ATO may require an alternative approved form for some entities.

For small and medium withholders they notify the ATO of the payments at the relevant labels on the BAS. Large withholders pay directly to the ATO. The notification may still be the BAS or IAS. The ATO will already have received the payments.

### **The entity is an ACNC charity or had an ABN as at 12 March 2020**

Charities can be eligible even if they are set-up after 12 March. Other entities must have an ABN and must have had assessable income from carrying on a business in the 2018-19 financial year or made supplies in the period 1 July 2018 to 12 March 2020. This income or supplies must have been notified to the ATO either on the 2019 tax return or business activity statements before 12 March 2020. This may be an issue for smaller entities that have not lodged a 2019 tax return or BAS with sales information.

### **There was no tax avoidance scheme**

The legislation includes an anti-avoidance mechanism which applies where the sole or dominant purpose of the scheme is obtaining or increasing the amount of the cash payment. This is a very basic provision and although includes similar working to Part IVA is not as sophisticated. It will be interesting to see if the ATO can successfully apply the provision where there is a change in remuneration mechanism for the period. However, we would caution artificially putting in place arrangements which allow the payment to be higher.

### **The initial boost payment**

The initial boost payment will be made on the later of the lodgement due date or the lodgement date of the relevant BAS.

For a monthly payer (medium or large withholder). The first payment will be based on 300% of the PAYG payments in March 2020 (capped at a minimum of \$10,000 and maximum of \$50,000). The balance of the \$50,000 will be paid based on actual PAYG withholdings on the BAS lodged in April, May and June 2020. Where PAYG withholdings are insufficient to give an accumulated payment of \$50,000, the entity will only be entitled to receive the lower amount.

## COVID-19 Legislation review note - INTERNAL USE ONLY

For a quarterly payer, the first payment will be based on the actual withholdings in the March 2020 quarter (capped at a minimum of \$10,000 and maximum of \$50,000). The second payment will occur on lodgement of the June 2020 BAS.

### **The second boost payment**

The second boost payment is equal to the first boost payment. There are no additional requirements to be entitled to the payment. The payment is made:

For Quarterly payers: 50% on the June 2020 BAS & 50% on the Sept 2020 BAS

For Monthly payers: 25% in each of the June, July, August & September BAS