

# TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

*The following information is only of a general nature and should not be taken as professional advice.*

## UPDATE 3 | Cash Boost

The cash boost is about a lot of money – easily gained – easily lost.

### Cash Boost

The federal COVID-19 stimulus package includes a significant cash boost – up to \$100,000 per business. And it is this cash boost that is the centre of attention at the moment.

In this episode Andrew Henshaw of Velocity Legal will cover the calculation of the cash boost and then answer three important questions.

We recorded this interview on Friday afternoon – 27th of March 2020. Here is what we learned but please listen to the actual episode since Andrew explains the cash boost in much greater detail.

We updated the episode and these show notes on 6 April 2020 to correct some comments that had been misleading.

This episode focuses on the first 3 of the 7 tests you need to qualify for the cash flow boost. Our subsequent update Cash Flow Boost we published on 6 April 2020 focuses on the other 4 conditions. So all up there are 7 conditions you need to meet to qualify.

*To listen while you drive, walk or work, just access the episode through a free podcast app on your mobile phone.*

### Calculation

There are two periods. The first period is from the 1st of January to the 30 June 2020. The second period is from the 1 June 2020 to the 30 September. So the month of June is actually in both periods.

If you are a monthly withholder, then your PAYG Withholding for March is crucial. You get that amount 3 times. It doesn't matter what you withheld in January or February, you get your March PAYG W 3 times. And then you also get the PAYG W for April, May and June, capped at \$50,000. That is the first period

And then you get exactly of whatever cash boost you received from March to June, you receive exactly that amount again.

So if you receive a cash boost of \$50,000 for March to June, you receive exactly the same amount again, broken down in 4 payments, paid out monthly from June to September. So in total you receive up to \$100,000.

If you are a quarterly withholder, then you just add up your PAYG W for the third and fourth BAS, so for the March and June quarter of 2020, and that is your first cash boost, again capped at \$50,000. And then you also receive the same amount again, so up to \$100,000 in total per business.

## Payment

The payment goes into your ATO Integrated Client Account and so covers any outstanding debts you have. And any excess – any refund balance after that – you can request to be paid out to you.

So if you have a large outstanding debt with the ATO, you probably won't see a single cent arriving in your pockets, but at least your debt will have gone down. But if you are up to date with BAS payments and income tax payments so far, then it will.

## Questions

Now let's go the four important questions about the cash boost that we cover in this episode. What happens if a business

- 1 – Has no PAYG W registration or registered after 12 March 2020?
- 2 – Does PAYG W but the amount withheld is nil?
- 3 – Runs through several entities? Are there any grouping provisions?
- 4 – Runs as a sole trader and partnership but doesn't employ anybody?

### 1 – No or Late PAYG W Registration

To qualify for the cash boost you need to meet 7 conditions. And to make it easier, let's give each test a name.

- 1 – Your turnover must have been below \$50m in 2018/19 ("Turnover Test");
- 2 – You need to have had an active ABN as of 12th March 2020 and still exist ("Existence Test") ;
- 3 – You must have had some activity, so either a dollar of assessable income in 2018/19 and/or taxable supplies before 12th March 2020 ("Activity Test");
- 4 – You must make an eligible payment before 30 June 2020 ("Payment Test"). Eligible payments are salary and wages and director fees as well as retirement, termination and compensation payments. And eligible payments also include contractor payments with voluntary PAYG withholding.
- 5 – You must notify the ATO of your PAYG W (even if the actual amount of PAYG W is nil) and you must do so in an approved form, so that usually means a PAYG W registration before 30 June 2020 ("Notification Test")
- 6 – You must pass the anti-avoidance provisions contained within the Act. The issue will be anything you do differently after 12 March 2020. ("Objective Purpose Test").
- 7 – And you must pass the lodgement test. The ATO requires you to lodge your relevant BAS and 2019 tax returns so they can administer the cash flow boost accordingly.

So without any PAYG W registration at all, you won't be able to notify the ATO in the approved form and hence you won't pass the Notification Test.

If you only registered for PAYG W after 12 March 2020, then the Objective Purpose Test becomes an issue. You could also call it the 'Smell Test'. If it looks to an objective outsider that you only registered to qualify for the cash boost, then you won't pass this test.

## **2 – Nil PAYG W**

To qualify for the minimum cash boost of \$20,000 – paid out in two lots of \$10,000 – you just need to pass the 7 tests, irrespective how much you actually withheld. So your actual PAYG W amount might be nil and you would still qualify for the minimum of \$20,000.

To receive more than the minimum as a quarterly withholder, you need to have withheld more than \$10,000 in the period January to June 2020 to get over the minimum.

As a monthly withholder you could in theory get more than the minimum with PAYG W of less than \$10,000. And the reason is that your PAYG W in March 2020 is multiplied by 3. Let's say you withheld \$7,000 in March 2020 and nothing else, then you would receive a cash flow boost of \$21,000 and hence more than the minimum with a PAYG W of less than \$10,000.

## **3 – Several Entities**

Grouping provisions apply to assess your turnover – to check whether you are below the \$50m turnover threshold. So if you have several business or entities, they are all grouped together to see whether you are below the \$50m.

But for the actual cash boost, there are no grouping provisions. So if you run your business through 10 entities and each entity meets the 3 conditions. then each entity can claim at least the minimum cash boost. So with 10 entities, you are looking at a cash boost of at least \$200,000, possibly \$1m. As long as all your entities together have a turnover of less than \$50m.

## **4 – Sole Traders and Partnerships With No Employees**

To qualify for the cash boost, sole traders and partnerships need to pass all 7 tests like any other entity. The issue is the payment test. If the sole trader or partnership has employees and hence does PAYG W, then all good.

Sole traders and partnerships without employees could still qualify, but only if they did voluntary withholding from contractor payments. But if this withholding occurred after 12 March 2020, then the anti-avoidance provisions become an issue.

## **How To Game the System**

There are some advisers out there who back then – and some probably still do – suggested 'strategies' to increase your cash boost.

The emails and webinars of course don't refer to this as 'gaming the system', although it looks like that. Here is what one of those webinars suggested but of course there are many more ways to game the system. But here here is what this particular webinar suggested – please note that this looks like straight-forward avoidance.

To summarise we put this into 5 steps – 5 steps to increase your cash boost.

### **Step # 1**

If you don't need your staff while you are closed down, let them go. The cash boost includes no incentive to keep your staff if you don't need them. If your business is shut down and you can't operate, then staff positions are redundant – so there should be no legal hurdles to making them redundant.

## Step # 2

Since you have no staff left, you need to step up, you need to work more to keep the lights on. And for that you need to pay yourself a salary with PAYG Withholding.

So instead of paying yourself dividends or a Div 7A loan, you pay yourself a salary with a withholding of up to \$50,000. \$50,000 is the cap so any salary with a withholding that takes you over \$50,000 will not change your cash boost.

## Step # 3

Time is of essence. You have until June to get to the \$50,000 withholding.

As a monthly withholder, any withholding you did in the month of March counts triple.

## Step # 4

Do this properly. So report your salary through STP, pay the relevant super on time, let Work Cover know.

## Step # 5

Keep going. Don't just pay yourself until June but keep going. When all this is over, you hire new staff. With more staff you can work less and hence reduce your salary again.

So that's what they are saying. Never this clear and straight forward of course. And of course they are very conscious of the anti-avoidance provision within the Act. But their argument is that of course these sudden salary payments have nothing to do with the cash boost – we are cynical here – they are just working more hours since their staff has left and hence they receive a higher salary.

## ATO

The ATO will probably have a close look at anything – new PAYG registrations, increases in PAYG W etc – that happens between 12 March and 30 June 2020.

## MORE

[UPDATE COVID-19 Stimulus Bill](#)

[Federal COVID-19 Stimulus Package](#)

[Job Keeper Payment](#)

**Disclaimer:** Tax Talks does not provide financial or tax advice. All information on Tax Talks is of a general nature only and might no longer be up to date or correct. You should seek professional accredited tax and financial advice when considering whether the information is suitable to you or your client's circumstances.

-----

The information above is for general information only and should not be taken as constituting professional advice from Tax Talks. We are not a financial, legal or tax adviser. You should consider seeking independent legal, financial, taxation or other advice to check how the above information relates to your unique

*circumstances.*