



mitchell & co
CHARTERED ACCOUNTANTS

All Hail the New EMDG (Export Market Development Grants) Legislation

As explained in previous newsletters the process to bring the new EMDG into action has three main steps/timelines.

1. **The EMDG legislation.** Last week, on the last day parliament sat for 2020 and after some huffing and puffing by both major parties, the new EMDG bill was passed. It will become law once Royal Assent is given when the Governor General comes back from his Christmas holidays.

To paraphrase the saying: *“Hail – The King is Dead. Long Live the New King”* is replaced by, *“Hail – the old EMDG is dead – Long live the new EMDG”*.

The new EMDG starts on July 1, 2021.

2. **The EMDG rules.** These were tabled the week before last and are open for comment later this week. In the next section of this newsletter, I will make more detailed comment.

The new rules are to be finalised over the next month or so, with a view to having them tabled in Parliament in the February sitting period. The rules “sit” for 15 days to see if objection to them should be raised.

Again, they have a start date of July 1, 2021.

- 3. Administrative Guidelines.** These guidelines have no legal status but are issued to help clients of the program interact with it. The Guidelines are of two types. “How to lodge and When to lodge by” – procedural ones and also interpretive ones – “What does the Act or Rules actually mean”. Both are yet to be released.

For example, it is not yet clear when applications for the 2021 grant year will be able to be made.

2021 will be a year of transition for EMDG. You will be able to lodge both an application based on the old Act, on past expenditure up to June 30th, 2021 and at the same time an application for the 2021/2022 year- for the future, to seek pre-approval of your export marketing plans and enter into a funding agreement.

The New Rules – Big Trouble brewing

The new rules like the Act itself read well and are written in the current legislative style, they are short on detail and you in fact cannot work out what they mean without the Administrative guidelines which is hard given that they have not been issued yet.

For example, the rules only state “*from time to time*” the minister will call for grant applications to be made, no dates are given or other details. These sorts of things will be dealt with through guidelines and the policy makers telling us “trust us, it means we can bring greater flexibility” to the scheme.

We will see what happens in the future.

At some time in the future, applications for EMDG support will open and the lodgement window will be short “some 4-6 weeks”. Hells Bells, that’s not being that flexible and user friendly to me. This short lodgement period is a major flaw

of the New EMDG.

Another flaw (a big one as well) is that on lodgement of your initial application for pre- approval, you do not know what the reimbursement rate that you receive will be, it cannot be more than 50%, but could very well be less.

Austrade needs to receive and process all “pre- approval bids”, add them up and then divide by the available funds to determine the payout rate. This will take time creating greater uncertainty.

I am not sure the Austrade system will be able to cope with the volume of applications in such a short period, it crashes enough already with the longer lodgement period.

The payout percentage for 2021/2022 grant pre- approval will be low, it will be below 50% in my reckoning for sure.

New EMDG is just a different solution to pay out applications on an entitlement basis (non-competitive) when the demand for funding exceeds the supply of money, government appropriation.

The new Rules are just a different way of rationing money to exporters. Going forward, exporters are worse off, not better off, under the New Rules. Good intentions in theory not working out in practice.

Under Old EMDG – clients had a lodgement window of 5-8 months.

You knew the reimbursement rate of 50% on your expenditure, above the \$5,000 user pay threshold.

You had certainty in your grant entitlement up to the first installment amount. In 2020, this sum is set at \$100,000 as a Covid-19 response, so only a minor

percentage of applicants have any uncertainty to their paid entitlement.

Some certainty as to timing of payment exists, but this is pretty much in any applicants' own hands, lodge early and you are normally paid early.

Under New EMDG – clients have only a lodgement of 4-6 weeks.

Not in the rules - will be in the guidelines instead.

So, if you miss it, you will have to wait another year to apply.

You have greater uncertainty as you do not know what grant rate you will be paid at (how much you will have to spend).

It does not matter if you lodge your application early or not, you must wait for all pre-approval bids to be made to know your fate. Austrade will need time to process all the applications it gets in such a short period. Application assessment quality will go down.

You cannot start spending until you get your approval, what about expenditure from July 1 to approval date?

There are also several other issues, dealing with Industry bodies and other rules of engagement, but the above flaws are my main area of focus at this time.

What happens next!

I have already made my thoughts very clear to both Austrade (Deputy CEO) and the Ministers office. "Firm" and "Forceful" are the adjectives that come to mind. I got the message through for sure.

I do see some light up ahead and the ability to make changes to fix the above flaws.

I have arranged an industry working party with some of my peers to be held with Austrade in early January to thrash out better working solutions to the short lodgement window and payment uncertainty rate.

The meeting will be in Sydney. I will have to remember how to check into the Qantas Club as it will be my first flight since COVID.

I have high hopes that some progress will be made there. I will report back to you then.

Again, all the best for Festive Season.

Stuart and team.