Federal Budget 2020–21

Insights and analysis into the Australian Federal Budget delivered on 6 October 2020

The marks are in. The grades are here. How does the Federal Budget report look this year?

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

RSM

CLASS IS NOW IN SESSION

Instant asset write-off

Corporates

Indirect tax

International

SME

Individuals

Superannuation

Innovation

Industries:

- Health
- Property & Construction
- Agribusiness

Progress of previous measures

For further information visit:
www.rsm.com.au/federal-budget-2020-21

Who makes the grade in the Federal Budget

The 2020-21 Federal Budget was deferred from May to October 2020 due to the extraordinary circumstances brought about by the COVID-19 pandemic. During those six months, the economic damage caused by the pandemic has resulted in the first recession in decades and the most severe economic crisis since the Great Depression.

While the economic implications have been severe on Australia, the nation has weathered the crisis comparatively better than other developed western nations, with a contraction in the June quarter of 7.0% compared to the United Kingdom of 19.8%, Canada of 11.5% and New Zealand of 12.2%. Despite those comparisons, Australia's own deficit is expected to balloon out to $213.7b, or the equivalent of 11.0% of GDP for the June 2021 year, with net debt expected to peak at $966b by June 2024. This is an incredible turnaround from the earlier expectations of a budget surplus in the June 2021 year.

The crisis has significantly impacted businesses and individuals, causing economic distress to businesses resulting in a wave of stand-downs and redundancies pushing unemployment to 6.8% in August, but it is expected to climb over the remainder of the June 2021 year. Unemployment has been kept at bay by the extensive business support and stimulus measures in the form of the JobKeeper scheme, cash flow boost and a range of other tax payment exemptions and deferrals.

The Government's pledge is that the Budget will drive a business-led recovery with a major focus on measures that are intended to spark a wave of new investment by business. The mantra of this Budget is firmly "Jobs, Jobs and Jobs" with each announcement carefully measured in terms of potential jobs creation.

In terms of tax measures, front and centre of the Budget's announcement is the self-described "game changer" of the **Instant Asset Write-Off**. This provides an immediate tax write off for expenditure on depreciable assets that would otherwise be subject to annual depreciation claims under the capital allowance rules. The measure significantly expands on the existing rules with uncapped eligible investment spending for corporates with turnover of up to $5b. This deliberately excludes the top-end of town including the major banks and miners. The measure applies immediately from Tuesday, 6 October 2020.

Coupled with the **Loss Carry Back** measure, which provides the ability for corporates to carry back losses to earlier years when taxes were paid, in many cases pre-COVID-19, these are potentially powerful tools. The Loss Carry Back measure allows corporate taxpayers that incur tax losses during the crisis and for years out to 2022, to offset those losses against taxable years back to 2018-19 and seek refunds of income taxes in those earlier years.

Tony Fulton
Director, Tax Services

For mid-sized businesses, the expanded access to **small business tax concessions** for companies with turnover up to $50m will be welcome. The measure provides access to a range of concessions including immediate deductions for prepayments and FBT exemptions for car parking and multiple electronic devices provided to employees.

To spark consumer spending, the earlier legislated **Stage 2 tax cuts** will be brought forward and back dated to 1 July 2020, from their previously legislated start date of 1 July 2022. The stage two cuts lift the threshold at which the 37% tax rate applies from $90,000 to $120,000, thereby targeting middle income earners. The Government will also make permanent the Low and Middle Income Tax Offset (LMITO) by lifting the threshold for the 19% tax rate from $37,000 to $45,000.

While there was speculation in the media that the Government might contemplate an earlier start date to the Stage 3 tax cuts, the Government has clearly decided to avoid the fight over accelerating tax benefits to middle and upper income earners.

Innovation and technology received a boost through changes to the **R&D tax incentive**, with the scrapping of the $4m refund cap imposed on businesses with turnover under $20m, and refinements to the proposed R&D "intensity" test to make the incentive more generous, especially for larger companies.

The Federal Budget also commits to a significant amount on infrastructure spending in an effort to feed the extensive pipeline of infrastructure projects to drive economic activity over the mid to longer term horizon and jobs growth in the construction sector and related services.

With the Federal Budget being delivered towards the end of the school year, our analysis seeks to "grade" each measure on their potential effectiveness of meeting the stated objective – rebuilding the economy, enabling businesses to rebound from the crisis, and stimulating spending to drive jobs growth.

Ultimately, history will judge how effective it will be in driving that rebound.

Our view is that the Federal Budget response is appropriately designed to stimulate investment spending in the near term and tax concessions will be welcomed by many small to mid-sized businesses. However, the longer term benefits of this budget will be limited, and there is still major work to be done on more extensive tax reform to address some of the structural impediments that the current tax system creates for investment and longer term jobs growth – the internationally uncompetitive corporate tax rate and the mix of taxes at federal and state level in particular. Whether the current Government has the stamina for that fight remains to be seen.

INSTANT ASSET WRITE-OFF

- **Instant asset write-off is significantly expanded to businesses with aggregated annual turnover of less than $5b. This is expected to comprise 99% of total taxpayers.**
- **Businesses with aggregated annual turnover of less than $5b will be able to immediately deduct the full cost of new depreciable assets and improvements to existing depreciable assets acquired from 7:30pm on 6 October 2020 and first used or installed ready for use by 30 June 2022.**
- **Unlimited cap on the cost of eligible depreciable assets able to be immediately deducted.**

Businesses with aggregated annual turnover of less than $5b will now be able to claim an immediate deduction for the full cost of expenditure on new Division 40 depreciable assets, or improvements to existing depreciable assets, that are first used or installed ready for use by 30 June 2022. This measure is expected to apply to 99% of taxpayers including individuals, trusts, and companies.

This measure extends the Government's previous instant asset write-off scheme by:

- Increasing the turnover threshold to businesses with aggregated annual turnover of less than $5b (previously the turnover threshold was less than $500m)
- Extending the operation of the scheme through to assets that are in use, or installed ready for use, by 30 June 2022
- Removing the limit on the cost of eligible depreciating assets able to be immediately deducted under the instant asset write-off rules (previously a limit of $150,000 cost applied), meaning that eligible businesses will be able to claim a tax deduction for the full cost of eligible depreciating assets first used, or installed, by 30 June 2022
- For SMEs with aggregated annual turnover of less than $50m, full expensing also applies to second-hand assets
- Businesses with aggregated annual turnover less than $500m that hold eligible assets for the enhanced $150,000 instant asset write-off that are not first used, or installed ready for use, by 31 December 2020 will have an extra six months to 30 June 2021 to first use, or install those assets ready for use to claim an immediate deduction
- Small businesses with aggregated annual turnover of less than $10m will be able to deduct the balance of their simplified depreciation pool at the end of the income year while full expensing applies

EVALUATION A+

- ☑ Outstanding
- ☐ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

Instant asset write-off measures in the Federal Budget receive a gold star.

The instant asset write-off measures only apply to eligible depreciating assets. Therefore, those businesses looking to incur expenditure on capital works assets such as the acquisition of a new building or improvements to a building would not qualify for the instant asset write-off.

Whilst the instant asset write-off measures are welcomed, they in effect only bring forward tax deductions that would otherwise have been available in future income years. Further, it is likely that Australian taxpayers accessing these provisions will be limited to those with balance sheets that support this level of investment.

Case study:

Expansion of instant asset write-off measures

Bills Buses Pty Ltd (Bills Buses) carries on a bus transport business and has an aggregated annual turnover of $650m. Bills Buses is looking to expand its fleet of luxury buses in the 2021 income year and will purchase four new buses on 1 June 2021 at a cost of $175,000 per bus. Bills Buses will be eligible to claim an immediate deduction of $700,000 for the purchase of the four buses in the 2021 income year. The cash flow benefit of this tax deduction would be $210,000 ($700,000 x 30%), and the company will obtain the cash flow benefit (through a reduced income tax liability) when it lodges its tax return for the 2021 income year.

Write-off of simplified depreciation pool for businesses with turnover less than $10m

Cynthia's Cafeteria Pty Ltd (Cynthia's Cafeteria) has an aggregated annual turnover of $7m. The balance of Cynthia's Cafeteria's simplified depreciation pool balance is $65,000 at the end of the 2021 income year. Cynthia's Cafeteria will be able to write off the entire balance of the simplified depreciation pool of $65,000 for the income year ended 30 June 2021. The cash flow benefit of this deduction would be $16,900 ($65,000 x 26%) and the company will obtain the cash flow benefit (through a reduced income tax liability) when it lodges its tax return for the 2021 income year.

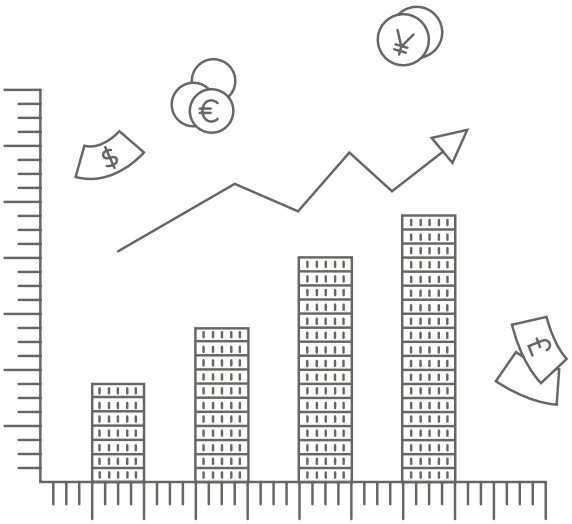
WINNERS

Small, medium, and large businesses looking to buy new equipment or upgrade existing equipment.

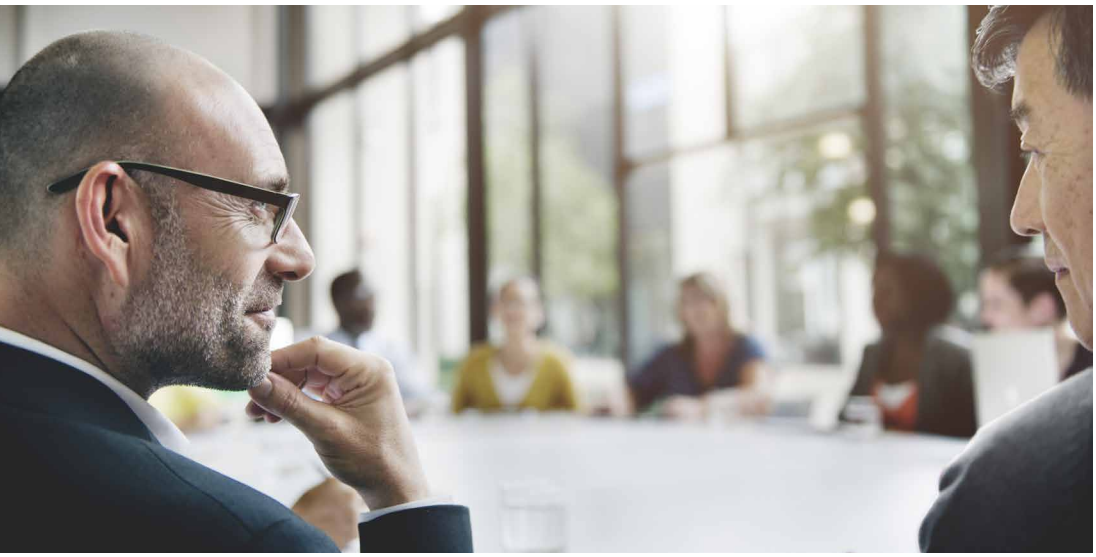
Companies in a tax loss position will now be able to obtain a cash flow benefit from the instant asset write-off deduction to offset previously taxed profits in the 2019 or later income years under the company loss carry back measures announced in the Federal Budget.

LOSERS

Businesses with aggregated annual turnover of $5b or more.



CORPORATES



- **The Government has reintroduced Tax Loss Carry Back provisions, allowing eligible companies to carry back tax losses to earlier income years**

Loss carry back

Under the announced measures, companies with aggregated turnover of less than $5b will be eligible to generate cash-flow by offsetting tax losses incurred in the 2020, 2021 and 2022 income years against profits taxed in 2019 or later years. The tax refund will be available on election by eligible companies when they lodge their 2020-21 and 2021-22 tax returns. Companies will need to wait at least until they lodge their 2021 income tax return before they reap the Tax Loss Carry Back refund. For companies with a 31 December substituted accounting period, this could be as early as January 2021.

Companies may be able to maximise their Tax Loss Carry Back refund by taking advantage of the expanded instant asset write-off or small business tax concessions deductions announced with this Budget.

Limitations of this measure are:

- The company must have an aggregated turnover of less than $5b. Aggregated turnover includes the turnover of associates (including non-resident associates)
- The amount carried back must not be more than the earlier taxed profits
- The tax offset must not cause the company's franking account to go into deficit
- The measure is only available to companies – businesses operating through other structures (eg trusts) will not benefit

Companies that do not elect to carry back their losses will carry them forward as normal.

The Budget does not include any detail on how this measure will operate in practice. Issues to be considered include:

- At what point is the $5b aggregated turnover considered – the loss making year, the profit making year, or throughout?
- Which loss integrity tests (continuity of ownership, same business, similar business), if any, will apply?
- What integrity measures, if any, will be introduced to prevent companies being overly aggressive in generating losses to carry back?

EVALUATION A+

- ☑ Outstanding
- ☐ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

Companies will need to wait at least until they lodge their 2021 income tax return before they reap the Tax Loss Carry Back refund.

WINNERS

Any company that paid tax in 2019 or 2020 but has incurred losses in 2020, 2021 or 2022

LOSERS

Businesses operating through non-corporate structures

Case study:

Case Study 1

Widget Pty Ltd is a company with an aggregated turnover of $90m. In 2019 Widget's taxable income was $5m, resulting in tax payable of $1.5m. In 2020 Widget's annual turnover was $80m, taxable income was $1m, resulting in taxable payable of $300,000.

In 2021, Widget made a tax loss of $8m. As a result, Widget Pty Ltd will be able to carry back $5m of its 2021 loss to 2019, and $1m to 2020. It will therefore claim a refundable tax offset of $1.8m on lodgement of its 2021 tax return. The remaining $2m of its 2020 loss will be carried forward.

Case Study 2

Profit Pty Ltd is a company with aggregated turnover of $1.5b. In 2019 Profit's taxable income was $25m, resulting in taxable payable of $7.5m.

In 2020, Profit's turnover was $1b and made a tax loss of $5m. As a result of these measures, Profit will be able to carry back its $5m loss to 2019 and claim a tax offset of $1.5m. It will have no losses to carry forward to the 2021 year. However, based on the Budget, Profit will not be able to claim its tax offset until it lodges its 2021 tax return.

Indirect Tax

- **The Budget acknowledges that expected GST receipts across the four-year forward estimate period to 2023-24 has been revised downwards by $21.2b to $74.6b. This reduction reflects a significant fall in the consumption of services, particularly discretionary consumption such as travel and leisure, as well as a re-direction of consumer spending towards GST-free items such as fresh food, education and health.**
- **Notwithstanding this net reduction in GST revenue, there are no significant GST-related measures announced in the Budget**

A missed opportunity for tax reform

There are no substantive GST-related changes in the Budget, though there are some minor, targeted measures proposed:

- With the Government proposing to extend the definition of "small business", the Commissioner will be empowered to issue a determination to allow businesses with an annual turnover of up to $50m to access a simplified accounting method for calculating and reporting their GST liabilities. This will allow eligible businesses to undertake a quick and simple calculation of their sales to determine their liability for GST or entitlements to input tax credits.
- The Indirect Tax Concession Scheme, which allows refunds of GST, fuel tax and alcohol taxes to be claimed by eligible diplomatic and consular representatives without the need to register for GST, will be extended to include claimants from Serbia and the Slovak Republic.

EVALUATION E

- ☐ Outstanding
- ☐ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☑ Unsatisfactory

Comment:

Despite calls for the rate and base of GST to be increased, the Budget leaves the GST system unchanged. This continues to reflect Australia's reliance on income and corporate taxes for economic recovery and Budget repair rather than using GST and other consumption taxes.

Case study:

For example, assume ABC Co has an annual turnover of $40m. Under the current GST rules, it must individually determine the GST amount on each sale and the input tax credit entitlement for each acquisition. If it qualifies for a simplified accounting method, it may be able to calculate its overall net GST liability or refund by reference to a specified rate or ratio relevant to, for example, total sales or net sales. The ultimate proxy will be dependent on what is contained in the Commissioner's determination but it will result in significant time savings relative to calculating the net GST position on an actual basis.

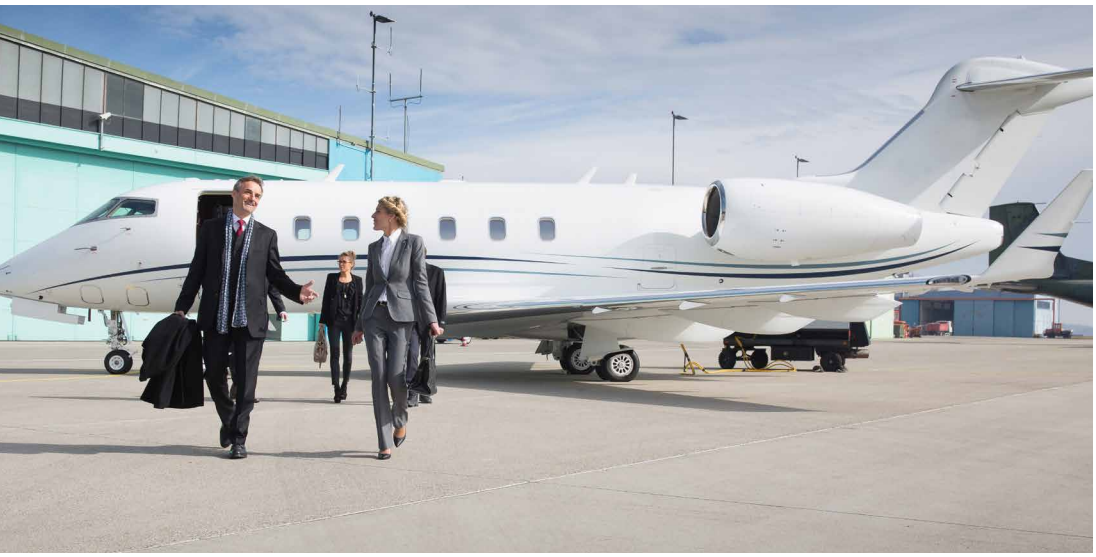
WINNERS

Small business with annual turnover of up to $50m

LOSERS

None

INTERNATIONAL



- **Positive changes to the corporate tax residency rules, which have recently been thrown into a state of uncertainty.**

International Tax Measures

Unlike prior Federal Budgets, this year's edition has not announced any international tax measures that seek to raise revenues from multinational groups, or that provide any unwelcome surprises.

To the contrary, it contains a very positive development, that will be a welcome relief to many Australian outbound groups with foreign subsidiaries – particularly SMEs. This is in the form of a relaxation of the ATO's position regarding corporate tax residency, which should practically reverse much of the uncertainty that has existed over the last two years, following the *Bywater* case and the withdrawal of an earlier tax residency ruling issued by the ATO.

The only other international measures are relatively benign changes, which expand the list of "information exchange" jurisdictions. This will have very limited practical implications, though it may encourage some investment from Hong Kong in particular.

Notwithstanding the lack of new revenue-raising measures, the ATO is expected to continue to scrutinise the international tax and transfer pricing risks of multinational groups, as it continues to enjoy additional funding as provided for in the prior Federal Budget. This Budget should be awarded a solid A grade from an International Tax standpoint.

Corporate Tax Residency

The Budget has announced the Government's intention to revamp the corporate tax residency test, in a manner which should make life easier for many Australian-parented groups with foreign subsidiaries.

This development stems from the High Court's 2016 decision in the *Bywater Investments / Hua Wang Bank* case, which found that various foreign-incorporated entities, in reality, were "centrally managed and controlled" in Australia, were consequently "carrying on business" in Australia, and had therefore become Australian residents for Australian tax purposes. In the wake of this decision, the ATO withdrew a prior concessionary ruling on 15 March 2017 and published a new ruling to accommodate this decision. This practically caused significant uncertainty – and the potential for highly unfavourable Australian tax outcomes – for numerous Australian groups with foreign-incorporated subsidiaries.

EVALUATION A

- ☑ Outstanding
- ☐ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

The Federal Budget deserves top marks for providing a practical solution to the state of confusion regarding corporate tax residency faced by many Australian-parented groups in the last two years. Other than that, from an international standpoint, this Budget is a case of "move along, nothing to see here". Multinationals investing into Australia should not be troubled by anything contained in this Budget.

The potential for adverse tax outcomes was further exemplified by the OECD-driven Multi-Lateral Instrument – which potentially denied Double Tax Treaty relief for such foreign subsidiaries. To manage this risk, groups would have needed to take active steps, such as holding Board meetings offshore, to demonstrate they were not "centrally managed and controlled" in Australia. These developments disproportionately impacted SMEs, and in particular owner/founder groups, which have less resources at their disposal to manage this issue, as contrasted with larger groups.

The Government is to be commended for commissioning, and now following the recommendations of, a Board of Tax review into this unsatisfactory state of affairs. The Government now proposes to amend the existing law to provide that a company which is incorporated outside of Australia, will only be treated as an Australian tax resident if it has a "significant economic connection to Australia". This will require that *both* "central management and control" *and* the company's "core commercial activities" are undertaken in Australia, in order for Australian tax law to deem the company to be an Australian tax resident.

The Budget's announcement states that the new measures will have effect from the first income year after the enabling legislation takes effect – but critically, taxpayers will have the option of applying the new law with effect from the repeal of the prior ATO ruling on 15 March 2017. In effect, this would seem to completely nullify the potential for adverse Australian tax implications from the *Bywater* case, thereby restoring the previous position.

Importantly, this only impacts the Australian position regarding corporate tax residency. It remains the case that foreign tax authorities may well seek evidence that entities which are incorporated in their jurisdiction are indeed centrally managed and controlled therein, for instance before issuing Certificates of Tax Residency. This is important to bear in mind, so Australian-parented groups with subsidiaries in foreign jurisdictions may well need to take some basic steps to substantiate their tax residency position in those foreign jurisdictions.

Expanded 'Exchange of information' jurisdictions

The Government has also announced a proposed expansion of the list of jurisdictions with an effective "information sharing" agreement with Australia. This will now include Hong Kong, along with perhaps less noteworthy contributors of foreign direct investment into Australia, being the Dominican Republic, Ecuador, El Salvador, Jamaica, Kuwait, Morocco, North Macedonia and Serbia.

Residents of these jurisdictions should, from 1 July 2021, be able to access the reduced withholding tax rate of 15% which is available to qualifying Managed Investment Trusts (being a reduction from the standard rate of 30%).

Perhaps more importantly, these further expansions of Australia's information sharing network will assist Australia in safeguarding the Commonwealth against tax evasion.

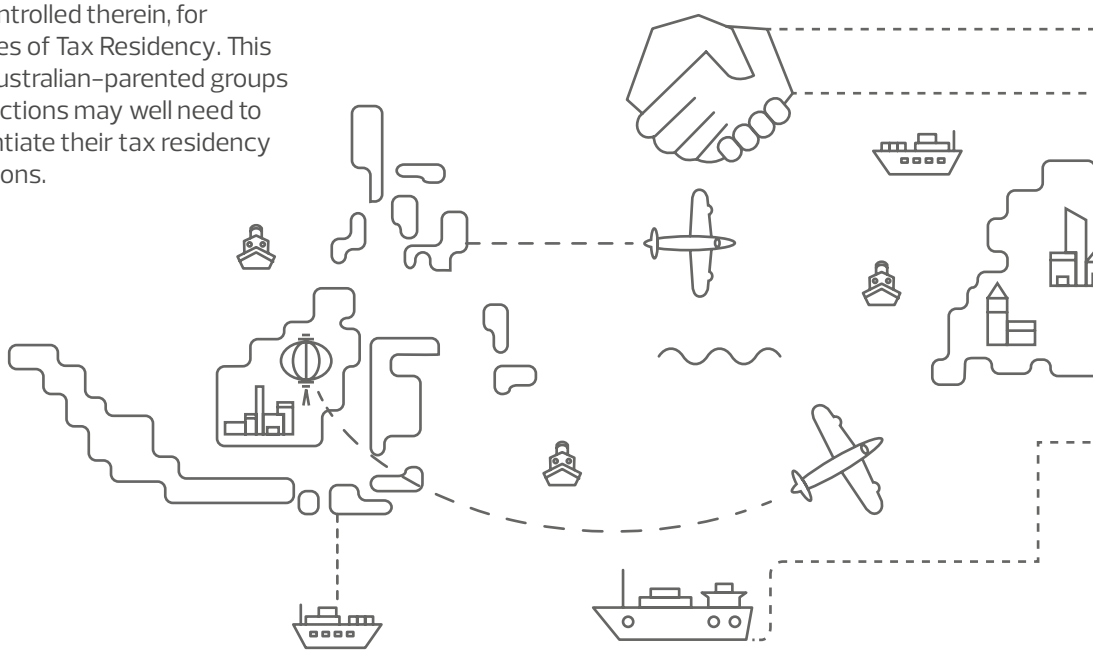
WINNERS

Australian groups with international operations, particularly those in the SME space.

Hong Kong-resident investors seeking to invest in Managed Investment Trusts.

LOSERS

None



SMEs

- **Access to up to 10 small business tax concessions will be extended to taxpayers with aggregated turnover of less than $50m**
- **The expanded concessions will apply in three phases over the 2021 and 2022 income years**
- **New FBT concessions and reduced FBT compliance obligations for employers**

Expanding access to small business tax concessions

This measure extends access to 10 small business tax concessions for businesses with aggregated turnover of less than $50m (previously only available to businesses with aggregated turnover of less than $10m).

The expanded concessions will apply over three phases:

- **From 1 July 2020**, eligible businesses will be able to immediately deduct certain start-up expenses and certain pre-paid expenditure.
- **From 1 April 2021**, eligible businesses will be exempt from the 47% FBT on car parking and multiple work related portable electronic devices, such as phones or laptops provided to employees.
- **From 1 July 2021**: eligible businesses will:
  - be able to access the simplified trading stock rules that do not require annual stocktakes or to account for changes in trading stock values
  - remit PAYG instalments based on GDP adjusted notional tax
  - if they are a brewer or distiller, be able to report and pay excise duty and excise-equivalent customs duty monthly on eligible goods, rather than weekly to help assist managing cash flow
  - be exposed to a reduced two year (currently four year) tax assessment amendment period (excluding entities that have significant international tax dealings or complex affairs) for income years starting from 1 July 2021

In addition, the Commissioner's power to create a simplified method accounting determination for GST purposes for eligible businesses will be expanded to apply to businesses with aggregated turnover of less than $50m.

EVALUATION B+

- ☐ Outstanding
- ☑ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

Expanding access to small business tax concessions make the grade in the Federal Budget.

Government deserves top marks for thinking of ways to get people to return to work

The expansion of the small business entity tax concessions do not apply to the following concessions:

- Small business entity simplified depreciation rules
- Small business restructure roll-over for asset transfers between small business entities, where the transfers are part of a genuine business restructure
- CGT Small Business Entity Concessions

Fringe Benefits Tax

Top marks to the Government for the FBT changes announced in the Budget, although the speculated FBT exempt corporate lunch is not on the menu!

There are three main FBT changes:

- FBT exempt training and reskilling courses for employees to redeploy them to a different role in the employer business. Currently only education or training that relates to an employee's existing position is FBT exempt.
- Small businesses (aggregated turnover of less than $50m) from 1 April 2021 may provide FBT exempt:
  - Car parking
  - Multiple work-related electronic devices such as laptops, mobile phones (currently this is limited to only one device of its kind each FBT year). This will assist employees with multiple workspaces such as home and office.
- Travel diaries and Declarations may be replaced by existing company records. This is a sensible and pragmatic outcome.

WINNERS

Employees and small businesses with aggregated turnover of between $10m and $50m

LOSERS

Medium sized businesses with aggregated turnover of $50m or more

Case study:

Case study 1:

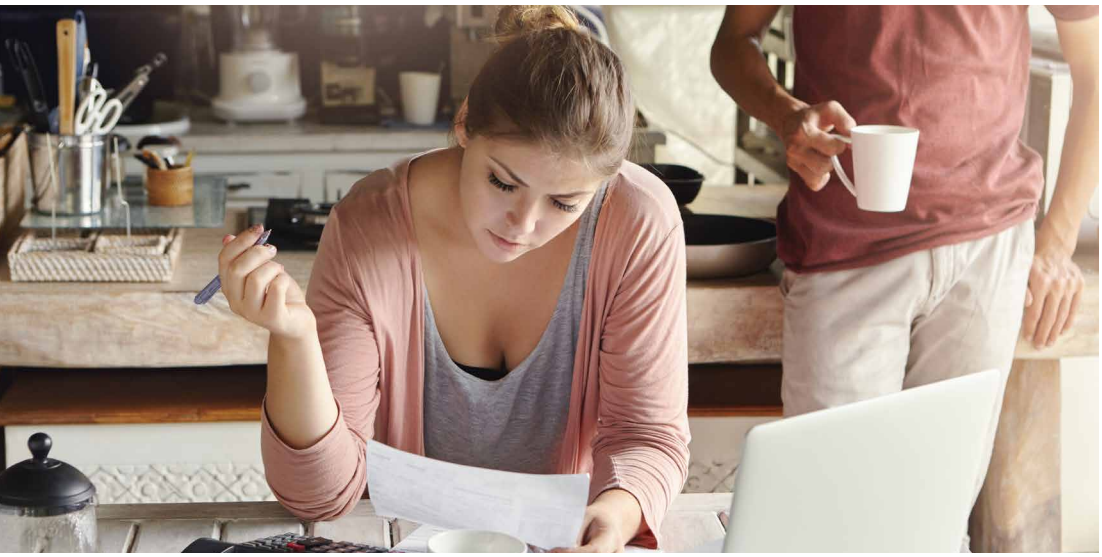
Classy Face Masks Pty Ltd (Classy Face Masks) is a newly incorporated company that proposes to carry on a business specialising in the production of face masks. Classy Face Masks aggregated turnover is less than $50m for the 2021 income year and they incur capital expenditure totalling $10,000 for advice in relation to how best to structure the business. Classy Face Masks is able to immediately deduct the $10,000 capital small business start-up expenses in the 2021 income year.

Case study 2:

Tony is employed by an architecture firm based in Melbourne, and his employer has offered a car park adjacent to the office to entice Tony back into the office. The cost of the car park is $6,000 a year. The FBT saving is $5,572 reducing the total cost from $11,572 to $6,000 a year. Tony's partner, Edwina is also working with the firm as an interior designer, and the firm has offered to sponsor her to complete a degree in architecture.

Currently, the business would be liable to pay FBT on the cost of the course, which it estimates would be $15,803 per annum. Under the proposed measures, the retraining costs for Edwina would be incurred without incurring any FBT liability. To assist Edwina in undertaking her study part time and working full time, the firm has offered to set up a home office. The new laptop and mobile phone purchased for Edwina will be exempt from FBT under the proposed new measure.

INDIVIDUALS



- **The Government's proposed Stage 2 individual tax rate changes scheduled to take effect from 1 July 2022 have been brought forward to 1 July 2020.**

The Government has brought forward Stage 2 of its three stage plan to reduce personal income taxes to 1 July 2020. Stage 2 was originally scheduled to take effect from 1 July 2022.

Stage 2 involves:

- Increasing the Low Income Tax Offset from $445 to $700 (resulting in an additional $255 in individuals' pockets)
- Increasing the top threshold of the 19% tax bracket from $37,000 to $45,000 (a reduction in personal tax of $1,080)
- Increasing the top threshold of the 32.5% tax bracket from $90,000 to $120,000 (providing tax relief of up to $1,350)

The table below reflects the Government's proposal to bring forward the income tax rates and thresholds to 1 July 2020 (Stage 2) and retain Stage 3 to commence from 1 July 2024.

EVALUATION B+

- ☐ Outstanding
- ☑ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

The brought forward personal tax cuts make the grade. However, there has been no change to the timing of the Stage 3 individual tax rate adjustments (scheduled to take effect from 1 July 2024).

Tax rates and income thresholds			
Tax Rate	**2019–20**	**2020–21 (new)**	**From 2024–25 (unchanged)**
Nil	$0 – $18,200	$0 – $18,200	$0 – $18,200
19%	$18,201 – $37,000	$18,201 – $45,000	$18,201 – $ 45,000
30%			$45,001 – $ 200,000
32.5%	$37,001 – $90,000	$45,001 – $120,000	N/A
37%	$90,001 – $180,000	$120,001 – $180,000	N/A
45%	$180,001 +	$180,001 +	$200,001 +
Low and middle income tax offset (LMITO)	Up to $1,080	Up to $1,080	N/A
Low income tax offset (LITO)	Up to $445	Up to $700	Up to $700

There have been no changes to the Medicare Levy, which remains at 2% of taxable income.

The Stage 3 changes (reducing the 32.5% bracket to 30%, increasing the upper limit of this bracket to $200,000 and removing the 37% bracket) will apply from 1 July 2024, as currently legislated. At this point, the Budget estimates 95% of taxpayers will pay a marginal tax rate of no more than 30% (plus Medicare Levy).

As currently legislated, the introduction of the Stage 2 changes means that the Low and Middle Income Tax Offset (LMITO) was to be removed. However the Budget provides for a one-off benefit under the LMITO in the 2020-21 income year, worth up to $1,080 for individuals and $2,160 for dual income couples.

Case study:

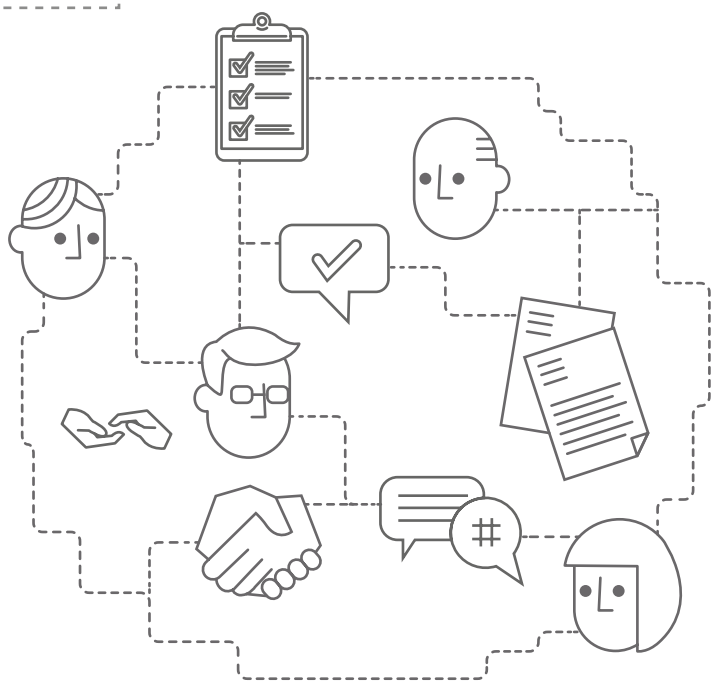
Example 1
Fred and Wilma are married with two children. In 2021, Fred earns $66,000 and Wilma $54,000. These changes mean that Fred and Wilma each pay $2,160 less in tax ($4,320 combined) in 2021 compared with 2018.

Example 2
Betty and Barney are a couple, each earning $120,000. The Budget announcements mean that Betty and Barney each pay $2,745 less in tax in 2021 ($5,490 combined) compared with 2018.

Example 3
Clarke and Ellen are a couple with one child. Ellen earns $200,000 in 2021, whilst Clarke is a stay at home Dad. The above changes mean that Ellen will pay $2,565 less in tax for 2021, compared with 2018.

WINNERS
Individuals, particularly low and middle income earners

LOSERS
None



SUPERANNUATION

- **The *Your Future, Your Super* reform is designed to empower members with superannuation fund choice, through improved transparency and accountability of superannuation fund performance and fees. It encourages a reduction in waste and member fees paid by allowing members to carry their superannuation fund of choice across to new a new employer seamlessly.**

Marginally improving the efficiency of the super system

In practice these reforms will enable members to use the Governments' YourSuper comparison tool by 1 July 2021, to hold their MySuper fund's performance to account. And from 1 July 2022, the tool will include a broader range of trustee directed products.

In all it will allow a member to make a fast assessment of their current fund's suitability to their needs and allow a performance ranking. This tool should enhance competition between superannuation funds, promote efficiency and put downward pressure on fees. The tool will also prompt a member to consolidate multiple funds, as their existing funds will be visible through a portal.

There will also be an annual performance test, that will force any MySuper fund products that consistently underperform (measured over seven years) to cease taking on new members. This may see a narrowing of the discrepancy of performance seen amongst superannuation funds, an issue previously highlighted by the Productivity Commission. The Government is trying to enhance competition in the industry to reduce waste and improve member outcomes. The Government is also raising governance standards for trustees of large funds by mandating a best interests' duty for superannuation trustees so that their actions must be demonstrably in the best interests of their members.

These measures will also reduce, over time, account duplication which is a common problem and a source of tremendous waste. It will achieve this by improving the portability of a member's fund of choice.

EVALUATION C

- ☐ Outstanding
- ☐ Very Good
- ☐ Satisfactory
- ☑ Marginal
- ☐ Unsatisfactory

Comment:

As a stimulus or tax revenue raising measure, this reform will not have a significant impact at a total estimated value of $17.9b over 10 years. While income tax cuts are welcome, the budget does not encourage additional investment into the super system to ensure lower income earners are adequately contributing, as the 15% tax on concessional contributions is close to the 19% rate for those who will now earn up to $45,000. However, it does encourage a member to critically assess the performance of their superannuation fund.

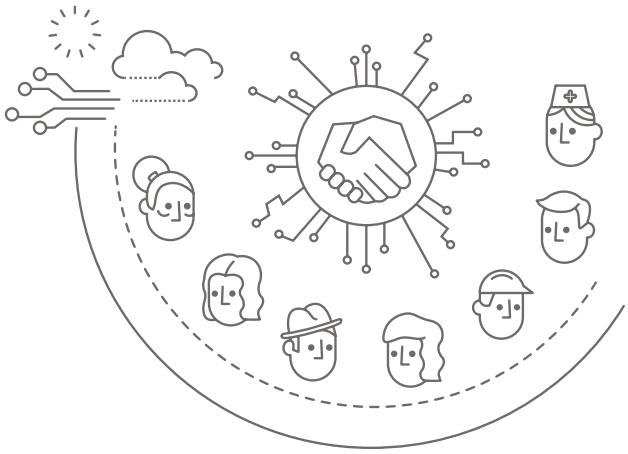
Measure	Benefits to members over 10 years
Your superannuation follows you	$2.8b
Empowering members	$3.3b
Holding funds to account for underperformance	$10.7b
Increasing transparency and accountability	$1.1b
TOTAL	**$17.9b**

Case study:

Sally is a 44-year-old successful dentist who owns her own practice. She regularly contributes to her MySuper account as part of her annual tax planning. She doesn't have an understanding of how her MySuper fund is performing, yet she would like to retire over the next 16 years.

The returns Sally earns will have an impact upon her final MySuper account balance. When she retires, Sally's balance may be lower than what it should have been because her savings may not have grown optimally in her final working years.

Under the reforms introduced she will be better off. She will have access to the YourSuper comparison tool and will be able to check if her MySuper fund is performing. If it is underperforming, she may find an alternative MySuper product that better suits her needs. Sally will be notified using the YourSuper comparison tool to consider making a different choice of MySuper fund. The tools create awareness that could lead to savings of up to $60,000.



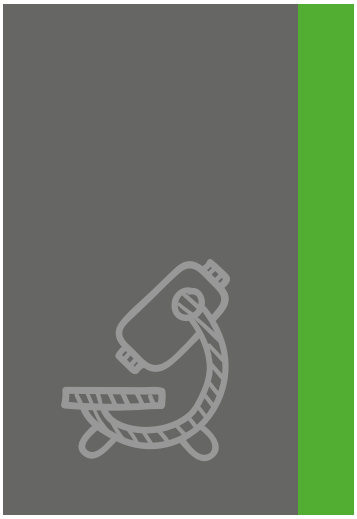
WINNERS

- Members of APRA-regulated superannuation funds, particularly those with multiple jobs or those that change jobs often
- Members with limited financial literacy
- Large efficient superannuation funds
- High performing funds
- Superannuation funds targeting first time workers who may continue on with that superannuation fund for life

LOSERS

- Poor performing superannuation funds
- Superannuation funds that lack scale
- Member directed superannuation fund products (including SMSFs) will not benefit
- Large superannuation fund trustees and boards will be more accountable

INNOVATION



R&D TAX INCENTIVE

- **Current R&D tax incentive rules stay in place through the current financial year – no risk of retrospective changes**
- **Changes effective for income years commencing from 1 July 2021**
- **Under $20m turnover companies retain current R&D benefit rate**
- **Over $20m companies have a new two-tier R&D intensity determined R&D benefit rate**
- **Planned integrity measures from previously proposed legislation for clawback, feedstock and public disclosure of claims by the ATO still to be brought in**
- **Interactions with new loss carry back and instant asset write-off provisions will need to be carefully assessed**

Since the 2018 Budget, there has been legislation before parliament to make significant changes to the R&D tax incentive. This legislation has been through two Senate Committee reviews and an election without successfully passing. It has had the R&D community on tenterhooks wondering what would happen. The Budget announcements have allayed many key concerns with the:

- $4m refund cap being abolished
- intensity test being simplified
- R&D benefit rate retained for under $20m turnover companies and boosted for most companies over $20m
- maximum claimable R&D spend cap also increased from $100m to $150m

The proposed legislation also had a number of changes to integrity measures around clawback, feedstock and balancing adjustments. These will remain along with the provision to allow the ATO to publish details of claimants R&D claims.

The effects of the newly announced tax loss carry back provisions and the expanded instant asset write-off on R&D claims will need to be carefully assessed and potentially add complexity in calculating the R&D benefit.

In summary:

- Under $20m turnover companies will have a refundable tax offset of 18.5% plus the company tax rate (25% from 1 July 2022 onwards) which is effectively the same as the current 43.5% tax credit
- Previously proposed $4m cap on R&D tax incentive refund for under $20m turnover companies has been dropped
- Over $20m turnover companies will be subject to a two tiered R&D intensity test with a non-refundable tax credit of 8.5% plus the company tax rate for R&D expenditure between 0 – 2% R&D intensity and 16.5% for expenditure above 2% R&D intensity [R&D intensity = R&D expenditure ÷ deductible expenditure].
- Eligible R&D expenditure cap increased from $100m to $150m

EVALUATION B+

- ☐ Outstanding
- ☑ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

The modifications to the previously proposed changes to the R&D tax incentive are mostly good, particularly for smaller (under $20m turnover companies) and larger highly intensive R&D companies with current benefit rates being retained or boosted.

Case study:

Really Smart Machines has claimed the R&D tax incentive for a few years. They have an aggregated turnover of $36m and total expenditure of $31.5m so they will fall into the new R&D intensity regime from FY22 onwards to calculate their R&D after tax benefit.

Their R&D expenditure for FY20, FY21 and FY22 remains steady at about $850,000 each year.

In FY20 they had an after tax R&D benefit of $93,500 (after tax benefit of 11%), in FY21 it will be $106,250 (after tax benefit of 12.5%) but in FY22, under the new R&D intensity rules, the after tax R&D benefit will be $89,850 (8.5% for the first $630,000 of R&D expenditure and 16.5% of the remaining $220,000 of R&D expenditure). A reduction on the previous two years.

In addition, their R&D claim amount and company name will be published publicly by the ATO.

Medium size companies ($20m to $50m turnover) with lower R&D intensity will lose out with a reduction in after tax R&D benefit from 12.5% in the current financial year to 8.5% in 2021–2022.

The R&D intensity provision for over $20m turnover R&D claimants will add complexity to preparing claims.

The opportunity to improve the R&D tax incentive for software development has again been ignored.

The interaction of the new loss carry back and instant asset write-off provisions with the R&D tax incentive will need to be carefully assessed on a company by company basis and could add complexity.

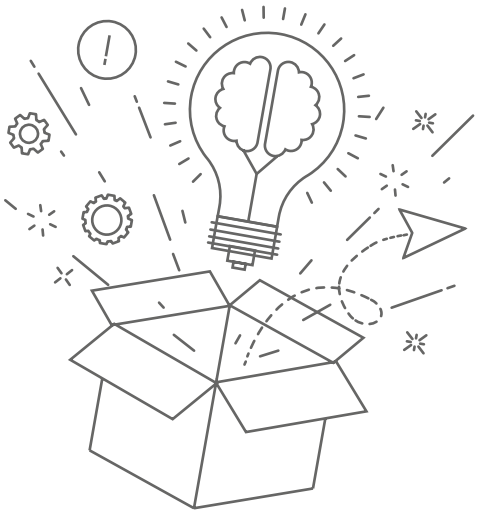
Previously proposed changes to integrity measures around clawback, feedstock, balancing adjustments and public disclosure of R&D claim details by the ATO remain.

WINNERS

- Companies under $20m turnover who will retain all their current R&D tax incentive benefits without the proposed $4m refund cap
- Companies over $50m turnover with high levels of R&D intensity and/or high R&D expenditure

LOSERS

- Companies with turnover between $20m – $50m who have lower R&D intensity. Their effective after tax R&D benefit will drop from 12.5% in FY21 to 8.5% in FY22



INDUSTRY:
HEALTH AND AGED CARE

- **Significant investment in COVID-19 related health initiatives**
- **Increased investment in Australia's Aged Care system**
- **Increased investment in mental health services**

WINNERS

Australians in general, particularly older Australians and those suffering from mental illness

LOSERS

None

EVALUATION B+

- ☐ Outstanding
- ☑ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

The Federal Budget deserves top marks for the level of funding provided to ensure Australia's health response to the COVID-19 pandemic is targeted to those in high risk areas.

The Government has invested a significant amount in its aim to ensure that Australians are supported throughout the COVID-19 pandemic. This includes:

- $1.7b over two years for COVID-19 vaccines and a further $24.7m for the supply and storage of vital consumables, such as needles and syringes, to ensure vaccines can be administered once available
- $1.1b to support access to health care services and reduce the risk of community transmission
- $1.1b for the National Partnership Agreement on COVID-19 Response, to continue support for the States and Territories in managing their public health response
- $100.8m over two years to provide up to 10 additional psychological therapy sessions, raising the annual number of sessions available from 10 to 20
- $47.3m over two years in additional mental health and crisis support services specifically for residents of Victoria
- $746.3m over four years to support older Australians, including:
  - $245m to assist all Commonwealth funded residential aged care providers and home care providers with the cost of operating during the COVID-19 pandemic
  - $205.1m over two years to support the direct care workforce through the payment of retention bonuses
  - $103.4m to continue the COVID-19 aged care preparedness measure that supports providers in managing and preventing COVID-19 outbreaks
  - $71.4m to support residents of aged care facilities who temporarily leave care to live with their families

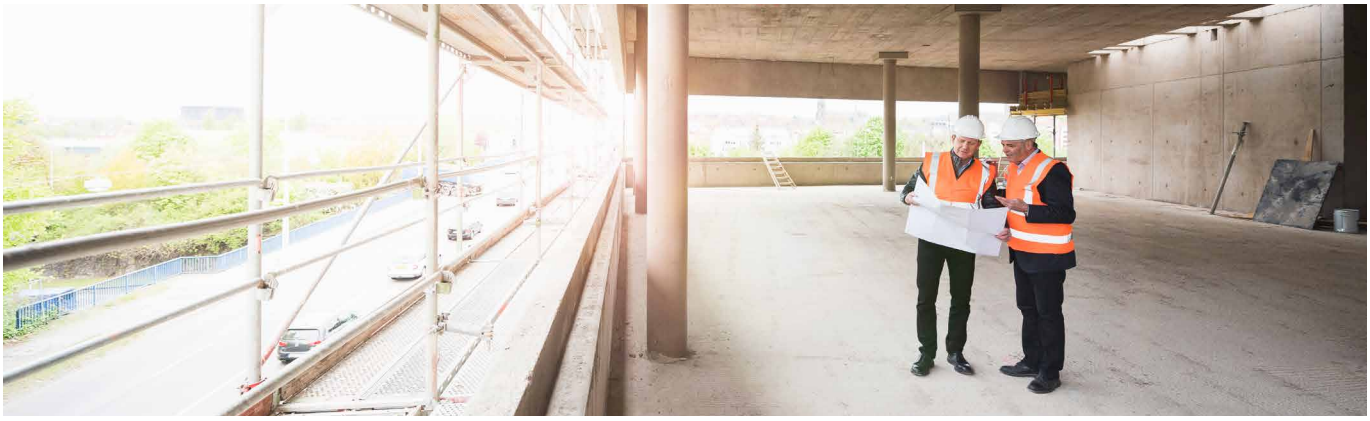
The Government has also committed to providing $2b over four years to further support older Australians accessing aged care by providing additional home care packages as well as continuing to improve transparency and regulatory standards. Funding includes:

- $1.6b over four years for the release of an additional 23,000 home care packages
- $125.3m over three years for the new Disability Support for Older Australians program to ensure older Australians with disabilities not eligible for the NDIS continue to receive support
- $91.6m over two years to continue the reform to residential aged care funding

The Government will also provide $375.5m over four years for new and amended listings on the Pharmaceutical Benefits Scheme (PBS) and Repatriation Pharmaceutical Benefits Scheme (RPBS).

These investments demonstrate the importance of Australia's health sector though this critical period in Australia's history.

INDUSTRY:
PROPERTY & CONSTRUCTION



- **Supporting first home buyers, and a boost for property and construction**
- **The Federal Government has promised an additional 10,000 places for first home buyers under the existing First Home Loan Deposit Scheme, and an increase of $1b in its guarantee of the National Housing Finance and Investment Corporation (NHFIC).**
- **Combined, the measures aim to assist first home buyers to acquire a new home sooner, generate an additional $800m in economic stimulus to the residential construction sector, and will allow the NHFIC to obtain greater investment from the wholesale capital market.**

With an emphasis on job creation and rebuilding the economy, the Federal Budget has promised an additional 10,000 places for first home buyers under the existing First Home Loan Deposit Scheme, and an increase of $1b in its guarantee of the National Housing Finance and Investment Corporation (NHFIC).

First home buyers & residential construction

The First Home Loan Deposit Scheme is an Australian Government initiative to support eligible first home buyers purchase their first home sooner. Under the Scheme, eligible first home buyers can obtain a loan to build a new home or purchase a newly built home with a deposit of as little as 5%. The Scheme provides a Government-backed guarantee equal to the difference between the deposit (of at least 5%) and 20% of the purchase price. From 6 October 2020, an additional 10,000 places will be made available to applicants. For those wishing to take advantage of the additional placements, applications can be made as part of the standard home loan application process through participating lenders.

In addition to supporting first home buyers to acquire a new home sooner, the measures aim to generate an additional $800m in economic activity in the residential construction sector.

National Housing Finance and Investment Corporation (NHFIC)

With the $1b increase in Government guarantee, the NHFIC is positioned to substantially increase its bond issuance into the wholesale capital market, attracting further investment in affordable housing in Australia. This additional investment will help further boost economic activity in the residential construction sector and support jobs in the broader construction industry.

EVALUATION C+

- ☐ Outstanding
- ☐ Very Good
- ☑ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

Pass marks awarded for support of first home buyers and new housing construction.

WINNERS

First home buyers and the residential construction industry

LOSERS

None

INDUSTRY: AGRIBUSINESS

The Government deserves top marks for delivering key measures to support agribusiness, including:

- **Immediate deduction for eligible business assets**
- **Extension of temporary visas to support agricultural workforce**
- **Introduction of JobMaker credits for hiring eligible employees on JobSeeker**
- **Extended $2b concessional loan funding to drought effected farmers**
- **$155m to support farmers and regional communities in drought**

Immediate deduction for eligible assets

With agribusiness being a capital-intensive industry, the new budget measures extending instant asset write-offs to an unlimited purchase value will result in significant tax deductions. In summary, the new measures provide an instant asset write-off for:

- Eligible new farm assets purchased before 30 June 2022 for businesses with less than $5b turnover
- Eligible new and second-hand farm assets installed and ready for use before 30 June 2022 for small to medium businesses ($10m - $50m turnover)
- Depreciable pooled assets currently owned for small businesses under $10m turnover

For primary producers, this includes sheds and eligible farm buildings. These measures will be of significant benefit to successful family farming businesses operating within a partnership, trust, or other non-corporate structure who have higher marginal tax rates.

Agricultural related funding announcements

- $2b over five years in concessional loans to help farmers prepare for, manage through, and recover from drought. This is an extension to the existing funding managed through the Regional Investment Corporation
- $350m to support regional tourism to attract domestic visitors back to the regions
- $328m for Australian exporters primarily through the modernisation and digitisation of export regulatory services
- $155m to extend the on-farm emergency water infrastructure rebate scheme, including $86m through the Future Drought Fund to establish drought resilience and adoption hubs

EVALUATION B+

- ☐ Outstanding
- ☑ Very Good
- ☐ Satisfactory
- ☐ Marginal
- ☐ Unsatisfactory

Comment:

Very good attempt by the Government. The only reason this has not achieved a top grade is because this key stimulus measure is only accelerating immediate or short-term benefits with entitlements that were always available in future years.

With water becoming one of the most valuable assets to agribusiness, the increased spending to ensure supply to regional areas is a necessary and welcome measure.

The increase in drought related concessional funding adjusts the eligibility and conditions for loans, including ceasing the interest-free terms for new applicants. An extension to the interest-free period for farmers effected by drought would have also been a welcome measure.

Measures assisting agricultural workforce

The current difficulties in labour shortages resulting from COVID-19 are well publicised amongst the agricultural sector. Agribusinesses will be able to benefit from recently announced temporary visa increases and the JobMaker hiring credit which will pay up to $200 per week for employing an individual under 30 on JobSeeker.

In order to encourage young people to work on farms, any young person who earns up to $15,000 in the agricultural sector before 30 December 2021 will qualify for youth allowance.

Case study:

Mooralee Farming Pty Ltd turns over $9m in the 2021 financial year. During the year they acquire a new harvester for $850,000 and have a closing small business depreciation pool balance of $1.5m.

The company will qualify for:

- $850,000 immediate write-off on harvester
- $1.5m immediate write-off on closing pool balance
- $2.35m total tax deduction or $611,000 income tax saving at the company rate of 26%

If the company is in a loss position, they may also be able to offset this loss against the previous years' income tax paid.

WINNERS

- Agribusinesses with turnover under $10m
- Agribusinesses who qualify for JobMaker hiring credit
- Expanding/Growth agribusinesses investing in plant & equipment

LOSERS

Minimal relief or assistance to agribusinesses with losses or low taxable incomes from seasonal or COVID-19 related commodity prices.

PROGRESS OF PREVIOUSLY ANNOUNCED FEDERAL BUDGET MEASURES

Measure	Summary	Date of effect	Status
INNOVATION			
R&D tax incentive changes	Significant changes to the calculation of the R&D tax incentive.	1 July 2019	Bill introduced. Note changes announced to amend earlier proposals.
PROPERTY			
Vacant land tax – limiting deductions	Tax deductions denied for expenses associated with holding vacant residential or commercial land. Does not extend to land used in carrying on a business.	1 July 2019	Enacted
SUPERANNUATION			
Increased maximum membership of SMSFs	Maximum Self-managed Superannuation Funds (SMSFs) membership increased from four to six.	Delayed to Royal Assent of the enabling legislation	Bill introduced
Yearly SMSF audit	The annual audit requirement for SMSFs will be changed to a three-yearly requirement for SMSFs with a good history of record keeping and compliance.	N/A	Measure abandoned
Contributions from multiple employers	Individuals whose income exceeds $263,157 and have multiple employers, will be able to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG).	1 January 2020	Enacted
Superannuation contributions	The age at which the work test starts to apply for voluntary concessional and non-concessional contributions has been increased from 65 to 67. The age limit for allowing spouse contributions to be received has been increased from 69 to 74.	1 July 2020	Amendments to the Superannuation Industry (Supervision) Act 1993 (SIS) Regulations have been registered
	Individuals aged 65 and 66 will be able to make up to three years of non-concessional superannuation contributions under the bring forward rule.	1 July 2020	Bill introduced and before Senate
Exempt Current Pension Income (ECPI)streamlining	Streamlining of the calculation of ECPI for superannuation funds. This will simplify the current requirements, which will include the removal of the need for SMSFs that are wholly in pension phase to obtain an actuarial certificate.	Delayed to 1 July 2021	Legislation has not been introduced
CORPORATIONS			
Instant asset write-off	Access to the instant asset write-off to be extended to taxpayers with turnover under $50 million and the asset value threshold was increased to $30,000.	2 April 2019 to 11 March 2020	Enacted
	Subsequent to the 2019 Budget and in response to the coronavirus pandemic, the Federal government announced that for businesses with turnover under $500 million the threshold would be increased to $150,000.	12 March 2020 to 31 December 2020	Enacted
Thin capitalisation	Various changes to thin capitalisation provisions, including the alignment of asset values to financial statements and change in investor classifications.	8 May 2018 or 1 July 2019 depending on the change	Enacted
Reducing the tax benefits achieved by 'stapled security' structures	Changes to the tax treatment of stapled security structures to improve the integrity of the provisions by limiting concessions available to foreign investors.	1 July 2019	Enacted
PRRT reforms	Reforms to the Petroleum Resource Rent Tax (PRRT) that reduce uplift rates on carried forward expenditure designed to reduce future PRRT deductions on long-term projects and remove onshore projects to simplify the regime.	Delayed to three months after the date of Royal Assent of the enabling legislation	Enacted
Minor amendments to the hybrid mismatch rules	The changes stipulate how the rules apply to Multiple Entry Consolidated (MEC) groups and trusts, reduce the circumstances in which an entity is a deducting hybrid, clarify the meaning of foreign tax, and specify that the integrity rule can apply where other provisions in the tax law have applied.	1 January 2019, 2 April 2019 or 1 July 2020 depending on the measure	Enacted

Measure	Summary	Date of effect	Status
Single touch payroll (STP)	The ATO will share payroll information with the Department of Human Services, enabling the Government to ensure welfare payments are based on actual earnings rather than estimates.	1 July 2019	Enacted
INDIRECT TAXES			
GST extended to offshore hotel accommodation sellers	Change to calculation of GST turnover by offshore online sellers of online accommodation which will increase the chances of exceeding the GST registration threshold.	1 July 2019	Enacted
Luxury car tax (LCT)	Amendments to the LCT refund arrangements for eligible primary producers and tourism operators to provide a full refund of LCT, up to a cap of $10,000, for eligible vehicles.	From 1 January 2020 (for vehicles delivered on or after 1 July 2019)	Enacted
INTERNATIONAL			
SGE definition expanded	Definition of Significant Global Entity (SGE) expanded to include members of large multinational groups owned by private companies, trusts and partnerships with global turnover greater than $1 billion.	1 July 2019	Enacted
Reduced withholding tax rate for MITs	Residents of countries that have entered into an Exchange of Information Agreement with Australia will have withholding tax reduced to 15% for certain distributions from Managed Investment Trusts (MIT).	54 countries were added with effect from 1 January 2019; Further changes are set to apply from 1 January 2020	Legislation has not been introduced
Digital services tax	A Treasury consultation paper explored options to move towards a fairer and more sustainable tax system for the digital economy, including a proposal for a digital services tax.	N/A	No announcements at this time
SMALL TO MEDIUM BUSINESSES			
Changes to Division 7A rules	Division 7A will be amended to among other things, require all existing 7-year and 25-year Division 7A loans, and all future Division 7A loans to have a duration of 10 years and provide a self-correction mechanism to assist taxpayers to rectify inadvertent breaches. The amendments will also clarify the circumstances in which Division 7A applies to Unpaid Present Entitlements.	Further delayed to income years commencing on or after the date of Royal Assent of the enabling legislation	Legislation has not been introduced
INDIVIDUALS			
Personal tax cuts	Increases to the base and maximum amounts of the low and middle income tax offset to $255 and $1,080 respectively for the 2019 to 2022 financial years. Adjustments to income tax brackets from the 2023 financial year.	1 July 2018 – 30 June 2025	Enacted
Circular trust distributions to Family Trusts	Integrity provisions to prevent Family Trusts from deferring income through 'round robin' distributions.	1 July 2019	Enacted
Removing CGT discount for MITs and AMITs	MITs and Attribution MITs (AMIT) will be unable to apply the 50% Capital Gains Tax (CGT) discount at the trust level.	Delayed to income years commencing on or after three months after the date of Royal Assent of the enabling legislation	Legislation has not been introduced
Tax free energy payments to pensioners	A previously announced once-off Energy Assistance payment of $75 for singles and $125 for couples was paid to eligible pensioners who are resident in Australia 2 April 2019. The payment is exempt from income tax.	Payments were made prior to 30 June 2019	Enacted
INDUSTRY: Agribusiness			
Farm Household Allowance (FHA) eligibility extended for forced destocking sales	The FHA extension ensures that FHA recipients will retain access to income support when net proceeds of forced livestock sales are invested into a Farm Management Deposit (FMD).	27 March 2020	Enacted
TAX COMPLIANCE INTEGRITY MEASURES			
Strengthening the Australian Business Number system	The Government will strengthen the Australian Business Number system (ABN) by linking an ABN holder's ability to retain their ABN to their income tax compliance obligations and requiring an ABN holder to confirm the accuracy of their details on the Australian Business Register (ABR) annually.	Requirement to lodge a tax return – 1 July 2021 Requirement to confirm details on the ABR annually – 1 July 2022	Legislation has not been introduced
Cash payment limit	Introduced a cash payment limit of $10,000 for payments made or accepted by businesses for goods and services. Exclusions apply.	Payments made or received from 1 January 2020	Senate Committee reported on 28 February 2020

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

rsm.com.au

RSM