TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

BUDGET EDITION 2021

IN THIS GUIDE...

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Budget 2021-22 - A Continued Win for Small Business

It is important to note that, upon reading the papers summarising the budget papers, there are two things that we look towards.

Firstly, it's all about how much the government will spend over the next year, and how much it will receive. It's important to know what the numbers will look like, but the Budget numbers are an overall number that we take into the future and work with.

The government only has some impact on these numbers, for example, the price of iron ore is set by the market and has a massive impact on the government's revenue. As iron ore goes up, the miners make more money and pay 30% of those increased profits in Australian tax. At the moment, iron ore prices are booming.

Australia's GDP is current evidence that as a country, we are recovering well from the events of the previous twelve months. The GDP grew strongly over the latter half of 2020, marking the first time in records that Australia has experienced two consecutive quarters of economic growth above 3%. Though this has led to recorded lower unemployment rates, it is also without any recorded wages growth.

From a fiscal point of view, the underlying cash balance is now expected to be a deficit of $106.6 billion in 2021-22, compared with a deficit of $112.0 billion at the 2020-21 Budget. The Budget position is expected to improve over the projected estimates of an expected deficit of $57.0 billion in 2024-25. Over the medium term, the underlying cash balance is projected to improve to a deficit of 1.3% of GDP by 2031-32.

Secondly, after understanding the numbers, the legislative changes that will impact Australians are also present in the Budget and need to be understood. These can be changes to tax rates, changes to what is and what isn't tax-deductible, or any other changes to the rules relating to taxation.

Within this newsletter, we have provided a summary of a number of the most relevant tax changes and the superannuation changes from the Federal Budget for 2021-22. Read on to learn more about what they could mean for you.

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The Federal Budget - Tax Measures

With there being so many changes to tax as presented in the Federal Budget, this is a concise summary of those that may have the biggest impact or relevance to you.

- The government will provide an **income tax exemption for qualifying grants made to primary producers and small businesses affected by the storms and floods in Australia.**
- The government will allow taxpayers to **self-assess the tax-effective lives of eligible, intangible depreciating assets,** such as patents, registered designs, copyrights and in-house software.
- The government will **remove the cessation of employment taxing point for the tax-deferred Employee Share Schemes (ESS)** that are available for all companies.
- The government will **extend the power of the Administrative Appeals Tribunal (AAT) to pause or modify ATO debt recovery action,** in relation to disputed debts that are being reviewed by the Small Business Taxation Division (SBTD) of the AAT.
- The government will **replace the individual tax residency rules with a new, modernised framework.**
- The government will **increase the Medicare levy low-income thresholds for singles, families, and seniors and pensioners from 1 July 2020** to take account of recent movements in the CPI.
- The government will **remove the exclusion of the first $250 of deductions for prescribed courses of education.**
- The government will **extend the 2020-21 Budget measure known as the JobMaker Plan,** with temporary full expensing to support investment and jobs for 12 months until 30 June 2023.
- The government will extend the 2020-21 Budget measure titled JobMaker Plan — temporary loss carry-back to support cash flow.
  - » The extension will allow eligible companies to carry back (utilise) tax losses from the 2022-23 income year to offset previously taxed profits as far back as the 2018-19 income year when they lodge their 2022-23 tax return.
  - » Loss carry-back encourages businesses to invest, utilising the 2021-22 Budget measures, known as Temporary full expensing extension by providing eligible companies earlier access to the tax value of losses generated by full expensing deductions.

The Federal Budget - Superannuation Changes

From the Federal Budget, there have been many changes to superannuation and SMSFs. Most of these changes are positive if you are someone who puts money into super.

- **You will now be able to put $50,000 into your First Home Super Saver Scheme savings in your superannuation balance.** This is up from $30,000 originally available and if a couple takes advantage of this measure, it will allow around $100,000 in concessional savings for their first home. This will also give them a 15% bonus, where they are on a tax rate that is above 30% (income over around $45,000)
- You will now be able to **make downsizer contributions from age 60,** down from age 65.
- You will be able to **put non-concessional contributions into super (including using the bring forward rule) up until age 74 without the need to be working.** You will still need to meet the work test if you want to make tax-deductible contributions. This provides some very good planning for removing taxes from death benefits paid to your adult children.
- Currently, if you are working part-time and receive less than $450 per month your employer is not required to make superannuation contributions on your behalf. **That exemption is being removed and employers will now need to make super contributions.**
- There are old legacy products in Self-Managed Superannuation Funds known as Complying Pensions. People are “stuck” in these products and **the government will provide a 12-month window to withdraw from these Complying Pensions.**
- The government will be **relaxing the residency requirement for SMSFs** to allow you to stay overseas for up to 5 years.
- The government also announced in the Federal Budget that **it will not be proceeding with a measure to extend the early release of your superannuation where you are a victim of domestic violence.**

Continuing the SME Recovery Loan Scheme

The government will provide participating lenders with a guarantee for 80% of secured or unsecured loans of up to $5 million for a term of up to 10 years. Interest rates will be capped at 7.5%, with some flexibility around variable rate loans. These loans can be used by the SME for a broad range of business purposes, including supporting investment and refinancing existing loans. Lenders will also be able to offer borrowers a repayment pause of up to two years.

To be eligible, SMEs (including self-employed individuals and non-profit organisations) will need to have a turnover of up to $250 million and have been either:

- recipients of the JobKeeper Payment between 4 January 2021 and 28 March 2021
- located or operating in a local government area that has been declared a disaster as a result of the March 2021 New South Wales floods and was negatively economically impacted.

This measure is an extension of the loan scheme first released in July 2020 as part of the Covid-19 relief measures.

JobKeeper Overpayments

Some organisations may have been overpaid when it comes to their JobKeeper payments, while others may have incorrectly self-assessed their eligibility for JobKeeper. Most of the time, these overpayments are the result of honest mistakes. Though there are instances where paying that money back to the government is the optimal response, there are also some instances where you may keep it.

If an overpayment is identified, then one of the following will occur:

- The ATO will decide the overpayment does not have to be repaid (if the mistake made is honest, this is the typical outcome).
- The ATO will decide the overpayment needs to be repaid by you.
- The ATO will decide that another entity that directly or indirectly benefited from the overpayment is also liable to repay the overpayment – when another entity is also liable, they may pursue
  - the entire repayment from you,
  - the entire repayment from the other entity, or
  - payments from you and the other entity until the overpayment is repaid in full.

In terms of determining if an honest mistake was made, the ATO will look at the facts and circumstances in each situation and may consider the following factors:

- you relied, in good faith, on a statement made by an employee in their nomination notice
- you fully passed on the benefit of the JobKeeper payment to the relevant employee
- the mistake was made earlier in JobKeeper when there was less public guidance

If the ATO identifies that you have received an overpayment of JobKeeper that you need to repay, they will write to you to let you know:

- why they think there has been an overpayment,
- how much you need to repay, and
- how you can make the repayment.

If you disagree with their decision, you should contact us to represent you when dealing with the ATO to get them to reconsider their decision. It is also unlikely that there will be any penalties where the overpayment is a result of a mistake, rather than an intentional misclaim for the benefit.

Family Assistance Payments

If you are a recipient of a Child Care Subsidy or of Family Tax Benefit payments from Services Australia, you and your partner (if applicable) must lodge your 2019-20 Individual tax returns by 30 June 2021. The lodgement cannot be deferred by us.

If you are entitled to the Family Tax Benefit, but did not receive any payments in the 2019-20 financial year, you need to let us know, and lodge a lump sum claim with Services Australia by 30 June 2021.

If your tax return lodgement is not made by 30 June 2021 and you are receiving a Child Care Subsidy, you may:

- lose your ongoing entitlement
- receive a debt from Services Australia and have to repay the amount received in the 2019–20 financial year

If your tax return lodgement is not made by 30 June 2021 and you are receiving Family Tax Benefit, you may:

- miss out on additional payments,
- receive a debt from Services Australia and have to repay the amount received for the 2019–20 financial year, or
- have your fortnightly payments stopped.

Services Australia will need to know if you do not need to lodge a tax return for 2019-20.

Services Australia can assist if there are special circumstances preventing you from lodging before the deadline but it will be too late to deal with this after 30 June.

If there is any uncertainty as to whether or not you may need to lodge a tax return for 2019-20, speak with us.

Serious Financial Crime Taskforce

Every year serious financial crime costs the Australian community millions of dollars in lost revenue. With the support of partner agencies, the ATO is committed to preventing, detecting and dealing with this kind of criminal activity.

The Serious Financial Crime Taskforce (SFCT) is an ATO-led joint-agency task force established on 1 July 2015. It brings together the knowledge, resources and experience of relevant law enforcement and regulatory agencies to identify and address the most serious and complex forms of financial crime.

The current COVID-19 situation has provided a platform for criminals to become more active, targeting vulnerable people at a time when they need help. The SFCT does not take this lightly, and will investigate the most serious offenders of these crimes. They will be brought to account.

The current focus of the SFCT is on:

- cybercrime (technology enabled crime) affecting the tax and superannuation systems
- offshore tax evasion
- illegal phoenix activity
- serious financial crime affecting the ATO-administered measures of the Commonwealth Coronavirus Economic Response Package.

In December 2018, the Government extended the powers of the SFCT so that it now also supports Australia's involvement as a member of the Joint Chiefs of Global Tax Enforcement (J5). This allows the ATO to work together globally with leaders of tax enforcement authorities from Canada, UK, USA and the Netherlands to further disrupt international tax crime and money laundering.

As a member of the SFCT, the ATO is equipped with the resources, data-matching capability and international and domestic intelligence-sharing relationships to uncover even the most intricately-planned serious financial crimes.

Make a tip-off

The SFCT is committed to tackling illegal activity and behaviours of concern, especially when it comes to COVID-19 stimulus measures, phoenix, offshore tax evasion and cybercrime against the tax and superannuation system. If you are concerned that you or someone you know is doing the wrong thing, contact us and we can help you confidentially tip off the ATO. There is also an ATO Tip-Off Hotline on 1800 060 062

$850,000 Fine For "Phoenix" Activity

An investigation into a 62 year old man on allegations of illegal "phoenixing" activity has been conducted by the Australian Taxation Office (ATO), alongside the Australian Federal Police (AFP).

With charges totalling close to $850,000 having already been made against him, the man faces another four relating to the obstruction of Commonwealth officials undertaking their duties during an access visit.

The man allegedly set up a scheme where he did not remit the PAYG from employees' wages, knowing that the company would end up insolvent and the ATO would never receive their money. "Phoenixing" occurs when the perpetrator appoints "straw" directors to the company, and knows that there will be no benefit from taking action against them.

By never meeting their financial obligations, phoenix operators gain an unfair advantage. The government is fully aware of these activities and have managed to amend some laws to make the practice harder to undertake.

This man is an example of how the government will now lay criminal charges where they can't recover the money, but have the capacity to seize assets under the proceeds of crime laws. Everyone benefits when these financial fiends are brought to justice.