

## Budget measures for business

### Temporary full expensing extended

The temporary full expensing incentive will be extended for 12 months until 30 June 2023. Temporary full expensing allows businesses with an annual aggregated turnover under \$5 billion to deduct the full cost of eligible depreciating assets, as well as the full amount of the second element of cost (e.g. improvement costs and transport costs).

Temporary full expensing only applies to new assets located and principally used in Australia. Taxpayers can choose not to apply temporary full expensing to a depreciating asset (the choice cannot be revoked).

### Loss carry-back extended

The loss-carry back available to companies with an annual aggregated turnover of less than \$5 billion will be extended by 12 months. This 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.

The amount carried back cannot be more than the earlier taxed profits and the carry-back cannot generate a franking account deficit.

Companies that do not elect to carry back losses can still carry losses forward as normal.

### Pausing ATO debt recovery actions

The Government will allow small businesses to apply to the AAT (the Small Business Taxation Division) to pause or modify ATO debt recovery actions where the debt is being disputed in the AAT. A small business is one with annual aggregated turnover less than \$10 million.

When considering applications, the AAT will be required to consider the potential effect on the integrity of the tax system and ensure that there is a genuine dispute with the ATO.

This measure will apply in respect of proceedings commenced on or after the date the enabling legislation receives assent. It could save small businesses several thousands of dollars in court and legal fees.

## Employee share schemes

The Government will remove the cessation of employment taxing point for tax- deferred employee share schemes (ESS). This change will apply to ESS interests issued from the first income year after the enabling legislation receives assent.

As a result, tax will be deferred until the earliest of the remaining taxing points:

- In the case of shares, when there is no risk of forfeiture and no restrictions on disposal;
- In the case of options, when the employee exercises the option and there is no risk of forfeiting the resulting share and no restriction on disposal; or
- The maximum period of deferral of 15 years.

In addition, the Government will reduce red tape for ESS by:

- Removing regulatory requirements, where employers do not charge or lend to the employees to whom they offer ESS; and
- Where employers do charge or lend, streamlining requirements for unlisted companies making ESS offers that are valued at up to \$30,000 per employee per year.

## Depreciation – intangible assets

Taxpayers will be allowed to self-assess, for depreciation purposes, the effective life of intangible assets such as patents, registered designs, copyrights and in-house software. This will apply to assets acquired on or after 1 July 2023 (after the temporary full expensing regime has concluded).

Taxpayers will continue to have the option of applying the existing statutory effective life to depreciate these assets.

A similar measure was first proposed in December 2015 but was dropped when the relevant legislation (a 2017 Bill) was before the Senate.

## Storm and flood grants exempt

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 grants will be non-assessable non-exempt income).

Qualifying grants are Category D grants provided under the Disaster Recovery Funding Arrangements 2018, where those grants relate to the storms and floods in Australia that occurred due to rainfall events between 19 February 2021 and 31 March 2021. These include small business recovery grants of up to \$50,000 and primary producer recovery grants of up to \$75,000.

## Tax relief for small brewers and distillers

The excise refund cap for small brewers and distillers will increase from \$100,000 to \$350,000 per year from 1 July 2021.

From that date, eligible brewers and distillers will be able to receive a full remission of any excise they pay, up to an annual cap of \$350,000. Currently, eligible brewers and distillers are entitled to a refund of 60% of the excise they pay, up to an annual cap of \$100,000.

## Digital games offset

As part of its Digital Economy Strategy (see below), the Government will provide a refundable digital games tax offset to eligible businesses that spend a minimum of \$500,000 on qualifying Australian games expenditure. Games with gambling elements, or that cannot obtain a classification rating, will not be eligible.

The digital games offset will be available from 1 July 2022 to Australian resident companies or foreign resident companies with a permanent establishment in Australia.

## Medical and biotechnology incentive

The Government will introduce a patent box tax regime to further encourage innovation in Australia, by taxing corporate income derived from patents at a concessional effective corporate tax rate of 17%. The patent box will apply to income derived from Australian medical and biotechnology patents.

The concession will apply from income years starting on or after 1 July 2022.

The Government will also consult on whether a patent box would be an effective way of supporting the clean energy sector.

## Corporate tax residency rules

The Government announced in the 2020–21 Budget that the law would be amended to provide that a company that is incorporated offshore will be treated as an Australian tax resident if it has a "significant economic connection to Australia".

The Government has now announced that it will consult on broadening this amendment to trusts and corporate limited partnerships.

## Other measures

Other measures that affect business include:

- Technical amendments to the Taxation of Financial Arrangements (TOFA) rules, including facilitating access to hedging rules on a portfolio hedging basis, reducing compliance costs, and making sure taxpayers are not subject to unrealised taxation on foreign exchange gains and losses unless this is elected – applicable to relevant transactions entered into on or after 1 July 2022:
- Extending the Junior Minerals Exploration Incentive (JMEI) program for another 4 years to 30 June 2025 (funding of \$19.4 million each year):
- Revising the start date for the corporate collective investment vehicle (CCIV) regime to 1 July 2022. The CCIV is an investment vehicle with a corporate structure that provides flow-through tax treatment:
- Removing the concessional 10% effective tax rate that applies to income derived by offshore banking units from eligible offshore banking activities – legislation to implement this measure is presently before Parliament:
- A temporary levy on offshore petroleum production to recover costs of decommissioning the Laminaria-Corallina oil fields and associated infrastructure. The levy will terminate on 30 June of the year in which all costs associated with the decommissioning have been recovered.

## Digital Economy Strategy – tax and other measures

The Government released its Digital Economy Strategy on 6 May, but as part of the 2021-22 Budget. The Strategy is intended to target investments that will underpin improvements in jobs and productivity and make Australia's economy more resilient. There is a dedicated website at <https://digitaleconomy.pmc.gov.au>.

Measures announced by the Government include:

- Spending \$12.7 million to provide independent advice to Australian small businesses to help them build their digital capabilities through the Digital Solutions – Australian Small Business Advisory Services program:
- Spending \$15.3 million to enhance the value of electronic invoicing to help businesses reduce costs and increase productivity:
- As reported above, providing a refundable digital games tax offset to eligible businesses that spend a minimum of \$500,000 on qualifying Australian games expenditure – games with gambling elements, or that cannot obtain a classification rating, will not be eligible:
- As reported earlier allowing taxpayers to self-assess the effective life of certain intangible assets from 1 July 2023:
- Undertaking a review of the venture capital tax concessions to ensure they are achieving their intended objectives:

- Spending just over \$100 million over 6 years improving Australians' digital skills within the education and training ecosystem, as well as creating more immediate learning options for reskilling and upskilling for in-demand jobs:
- Investing \$53.8 million over 4 years to create the National Artificial Intelligence Centre to coordinate Australia's AI expertise and capabilities:
- Spending \$200.1 million to enhance myGov and \$301.8 million to enhance the My Health Record system:
- Delivering Australia's first Data Strategy setting out how the Government will enhance effective, safe and secure data use over the period 2021 to 2025; and
- Strengthening Australia's data security settings through the development of a National Data Security Action Plan.

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