t: (03) 9758 5888
e: info@gusnerassociates.com.au
w: gusnerassociates.com.au

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2021 Budget measures for individuals

Low and middle income offset

The low and middle income tax offset (LMITO) will be retained for 2021-22, thus avoiding an effective tax increase for many taxpayers. The benefit will depend on a taxpayer's taxable income.

Taxable income	Amount of LMITO
$0–$37,000	$255
$37,001 - $48,000	$255, plus 7.5% of the excess
$48,001 - $90,000	$1,080
$90,001 - 126,000	$1,080, less 3% of the excess
$126,001 +	Nil

The maximum amount of the LITO is $700, payable for taxable incomes up to $37,500. No LITO is payable once taxable income reaches $66,667.

Taxable income	Amount of LITO
$0–$37,500	$700
$37,501–$45,000	$700, less 5% of the excess
$45,001–$66,667	$325, less 1.5% of the excess

Medicare levy thresholds

The Medicare levy low-income threshold for singles for 2020–21 is $23,226 (compared to $22,801 for 2019–20). The family income threshold is $39,167 (compared to $38,474 for 2019-20), increasing by $3,597 for each dependent child or student (compared to $3,533 for 2019-20).

For single seniors and pensioners eligible for the senior Australians and pensioners tax offset (SAPTO), the Medicare levy low-income threshold for 2020–21 is $36,705 (compared to $36,056 for 2019–20). The family threshold for seniors and pensioners eligible for SAPTO is $51,094 (compared to $50,191 for 2019-20). The threshold increases by $3,597 for each dependent child or student.

No changes to tax rates

There were no changes to the income tax rates. As a reminder, the rates in the table below are legislated to apply for the 2020–21, 2021–22, 2022–23 and 2023–24 income years.

Income tax rates 2020-21 to 2023-24 — residents

Taxable income	Tax rate
Up to $18,200	Nil
$18,201–$45,000	19%
$45,001–$120,000	32.5%
$120,001–$180,000	37%
$180,001 and over	45%

The rates legislated to apply from 2024–25 are also unchanged. From 2024–25, a 30% rate will apply to the $45,001–$200,000 bracket, doing away with the 32.5% and 37% rates.

Simplified residency test

The individual tax residency rules will be replaced with a new, modernised framework. The primary test will be straightforward – a person who is physically present in Australia for 183 days or more in any income year will be an Australian tax resident. Individuals who do not meet the primary test will be subject to secondary tests that depend on a combination of physical presence and measurable, objective criteria.

The new framework is based on recommendations made by the Board of Taxation in its 2019 report on the residency rules. It will apply from the first income year after the enabling legislation receives assent.

Working holiday makers who stay in Australia for more than 6 months will become residents under the simplified test.

Self-education expenses

The first $250 of a prescribed course of education expense is currently not deductible. The Government will remove that limitation, with effect from the first income year after the enabling legislation receives assent.

Pension Loans Scheme

The flexibility of the Pension Loans Scheme will be improved by providing access to advance payments through allowing participants to access up to 26 fortnights' worth of top-up payments as a lump sum and introducing a No Negative Equity Guarantee.

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 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.

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.

Superannuation measures

First Home Super Saver Scheme

The maximum amount of voluntary contributions that can be released under the First Home Super Saver Scheme (FHSSS) will be increased from $30,000 to $50,000 (anticipated to start in 2022–23).

Other changes (to apply retrospectively from 1 July 2018) will assist FHSSS applicants who make errors on their FHSSS release applications, for example, by allowing individuals to withdraw or amend their applications prior to receiving a FHSSS amount.

In addition, the ATO will be allowed to return to a super fund any released FHSSS money that has not been paid to the individual. The money will be treated as the fund's non-assessable non-exempt income and will not count towards the individual's contribution caps.

SMSFs – residency requirements

The Government will relax residency requirements for self-managed super funds (SMSFs) and small APRA-regulated funds, by extending the central control and management test safe harbour from 2 to 5 years for SMSFs and removing the active member test for both fund types. The measure is anticipated to apply from 1 July 2022.

Other superannuation measures

Other superannuation measures announced as part of the Budget include:

- reducing the eligibility age for the downsizer scheme from 65 to 60 (anticipated to apply from 1 July 2022). This means that Australians aged 60 or over will be able to make an additional non-concessional super contribution of up to $300,000 from the proceeds of the sale of their home;
- scrapping the work test for those aged 67 to 74 (anticipated to apply from 1 July 2022). At present, individuals in that age bracket are required to be employed for at least 40 hours in a maximum period of 30 consecutive days in the financial year before they can make super contributions (concessional or non-concessional); and
- scrapping the requirement for workers to earn at least $450 a month before their employers are obliged to pay super (anticipated to apply from 1 July 2022).

The Government will *not* proceed with a measure to extend early release of super to victims of family and domestic violence.

No changes to superannuation guarantee

There had been speculation that the Government might defer the legislated increases in the super guarantee (SG) rate, but that did not happen in the Budget. Accordingly, the SG rate is still due to increase from 9.5% to 10% from 1 July 2021, and by 0.5% per year from 1 July 2022 until it reaches 12% from 1 July 2025.

Note that the SG opt-out income threshold will increase to $275,000 from 1 July 2021 (it is currently $263,157).

Key tax dates

Date	Obligation
21 May 2021	April monthly BAS due
28 May 2021	March quarter SG due
21 June 2021	May monthly BAS due
30 June 2021	Super guarantee contributions must be paid by this date to qualify for a tax deduction in 2020-21
14 July 2021	Issue PAYG payment summaries if not reporting through STP
21 July 2021	June monthly BAS due
28 July 2021	Lodge and pay June quarterly BAS Pay June quarterly PAYG instalment Employee super guarantee contributions due June quarter SG due
31 July 2021*	Finalisation declaration due if reporting through STP
1 Aug 2021*	Fuel tax credit rates change
14 Aug 2021*	July monthly BAS due PAYG withholding annual report due if not reporting through STP
28 Aug 2021*	June quarter SG charge statement due Taxable payments report due
7 Sep 2021	Deadline for application for super guarantee amnesty

*Next business day