October 2020 Tax Update

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Federal Budget 2020/21

In this edition of Tax Update we outline this year's historic Federal Budget key economic forecast indicators and key tax measures announced by the Government on 6 October 2020.

Delivered in the midst of the COVID-19 pandemic, considered the greatest economic challenge since the Great Depression, the 2020-21 Budget provides additional support in response to the health and economic effects of the pandemic. The Budget also implements the next phase of Australia's COVID-19 Economic Recovery Plan to create jobs, drive sustainable, private sector-led growth while continuing to deliver the essential services on which Australians rely.

At the 2019-20 Mid-Year Economic and Fiscal Outlook (MYEFO), the budget had returned to balance for the first time in 11 years and strengthening fiscal outcomes were anticipated over the forward estimates and medium term. However, with the onset of the COVID-19 pandemic the fiscal position has deteriorated, with substantial deficits and elevated debt levels expected over the forward estimates and into the medium term. The underlying cash balance is now expected to be an "eye watering" deficit of $213.7 billion in 2020-21.

Budget Economic Forecasts

Indicator	Forecast 2020-21	Forecast 2021-22	Forecast 2022-23	Forecast 2023-24
Real GDP (%)	-1.50	4.75	2.75	3.00
Employment (%)	2.75	1.75	1.00	1.75
Unemployment Rate (%)	7.25	6.50	6.00	5.50
Inflation (%)	1.75	1.50	1.75	2.00
Wage Price Index (%)	1.25	1.50	2.00	2.25
Current account deficit (% of GDP)	-11.00	-5.60	-4.20	-3.00
Budget cash surplus/ deficit ($ billion)	-213.7	-112.0	-87.9	-66.9

Source: 2020-21 Budget Papers, Statements Nos 1, 2 and 3

Key Budgeted Impacts and the Australian Economy

- In calendar year 2020, real GDP is expected to fall by 3¾ per cent, before growing by 4¼ per cent in calendar year 2021.
- The budget position is expected to improve over the forward estimates to an expected deficit of $66.9 billion in 2023-24.
- Travel restrictions and other containment measures affected the ability of consumers and businesses to undertake their usual activities, and led to the largest fall in GDP on record in the June quarter 2020. At the peak of the restrictions, 10 per cent of the labour force lost their job or were stood down on zero hours.
- Australia's recovery is expected to be driven by a further easing of containment measures, along with improving business and consumer confidence. Activity will also be significantly supported by the Government's economic support, including new initiatives announced in the 2020-21 Budget that support spending and investment.

Federal Budget 2020/21

Targeted Business Taxation and Incentives

As part of the Government's Jobmaker Plan the following temporary measures will be implemented to stimulate business investment and generate cash flow:

Loss carry back measures

- Eligible companies with aggregated annual turnover of less than $5b will be allowed to apply tax losses from 2019-20, 2020-21- or 2021-22 income years against taxed profits in a previous year (i.e. 2018-19 or later income years).
- The tax refund generated from the tax losses carry-back will be limited by restricting the amount carried back to be no more than the earlier taxed profits. In addition, the amount carried back must not generate a franking account deficit.
- The tax refund will be available when eligible businesses lodge their 2020-21 or 2021-22 tax returns.

Instant asset write off for business capital investment - temporary full expensing

- Businesses with aggregated annual turnover of less than $5b will be able to deduct the full cost of eligible capital assets acquired from 7:30pm AEDT on 6 October 2020 and first used or installed by 30 June 2022. This measure applies to new depreciable assets as well as the cost of improvements to existing eligible assets. It is also available to second-hand assets for businesses with annual turnover less than $50m.
- Businesses with aggregated annual turnover of $50m to $500m can still deduct the full cost of eligible second-hand assets less than $150,000 purchased by 31 December 2020 (first used or installed by 30 June 2021) under the enhanced instant asset write off.
- Small businesses with aggregated annual turnover of less than $10m can deduct the balance of their simplified depreciation pool at the end of the income year whilst full expensing applies.

JobMaker Hiring Credit

- The Government has announced that it will provide $4.0 billion over three years from 2020 21 to accelerate employment growth by supporting organisations to take on additional employees through a hiring credit. The JobMaker Hiring Credit will be available to eligible employers over 12 months from 7 October 2020 for each additional new job they create for an eligible employee.
- Eligible employers who can demonstrate that the new employee will increase overall employee headcount and payroll will receive $200 per week if they hire an eligible employee aged 16 to 29 years or $100 per week if they hire an eligible employee aged 30 to 35 years. The JobMaker Hiring Credit will be available for up to 12 months from the date of employment of the eligible employee with a maximum amount of $10,400 per additional new position created.
- To be eligible, the employee will need to have worked for a minimum of 20 hours per week, averaged over a quarter, and received the JobSeeker Payment, Youth Allowance (other) or Parenting Payment for at least one month out of the three months prior to when they are hired.

To be eligible, the employee must have received the JobSeeker Payment, Youth Allowance (Other), or Parenting Payment for at least one of the previous 3 months at the time of hiring.

The JobMaker Hiring Credit will be claimed quarterly in arrears by the employer from the ATO from 1 February 2021. Employers will need to report quarterly that they meet the eligibility criteria.

As mentioned above, to attract the JobMaker Hiring Credit, the employee must be in an additional job created from 7 October 2020. To demonstrate that the job is additional, specific criteria must be met. The “additionality criteria” require that there is an increase in:

- the business' total employee headcount (minimum of one additional employee) from the reference date of 30 September 2020; and
- the payroll of the business for the reporting period, as compared to the 3 months to 30 September 2020.

Federal Budget 2020/21

Targeted Business Taxation and Incentives (cont.)

JobMaker Plan - boosting apprenticeships wage subsidy

The Government will provide a capped 50% wage subsidy to businesses who take on a new Australian apprentice from 5 October 2020 to 30 September 2021.

It is available to businesses of any size, and:

- eligible businesses will be reimbursed up to 50% an apprentice or trainee's wages up to $7,000 per quarter
- it is limited to 100,000 places of new apprentices or trainees who commence during this period.

The payment will be paid in respect of commencing or recommencing apprentice's – ie, it will be possible to re-employ former apprentices whose employment had been terminated.

JobMaker Plan - global business and talent attraction taskforce

The Government will provide $29.8 million over two years from 2020 21 to establish a new whole of government Global Business and Talent Attraction Taskforce to attract international businesses and exceptional talent to Australia, to support the post COVID recovery and boost local jobs.

This initiative builds on the existing Global Talent Initiative and Business Innovation and Investment Program, and the new initiative announced by the Prime Minister on 9 July 2020 to attract export orientated Hong Kong based businesses to Australia.

JobMaker Plan - Research and Development Tax Incentive

The changes announced in the 2020-21 Federal Budget seek to reverse these more recent proposed cuts and instead enhance the benefits available under the program. Effectively, no company will be worse off under the new announcement compared to the current program and many claimants will be better off.

Specifically, the Government has announced that it will defer the start of previously announced changes to the R&D tax incentive to income years starting on or after 1 July 2021 with the following now proposed:

- For companies with aggregated annual turnover of less than $20 million, the refundable R&D tax offset will be set at 18.5 percentage points above the claimant's company tax rate, and the $4 million cap on annual cash refunds will not proceed.

- For larger companies with aggregated annual turnover of $20 million or more, the Government will reduce the number of intensity tiers from three to two. The intensity tiers tie the rates of the non-refundable R&D offset to the companies R&D expenditure as a proportion of total expenses for the year. The non-refundable R&D tax offset will be the claimant's company's tax rate plus:

    - 8.5 percentage points for R&D expenditure between 0 and 2 per cent R&D intensity; and
    - 16.5 percentage points for R&D expenditure above 2 per cent R&D intensity.

All other aspects of the previously proposed measures will remain unchanged, including the increase to the R&D expenditure cap from $100 million to $150 million per annum.

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Federal Budget 2020/21

Targeted Business Taxation and Incentives (cont.)

COVID-19 Response Package - making Victoria's business support grants non-assessable, non-exempt income for tax purposes

- The Victorian Government's business support grants for small and medium business as announced on 13 September 2020 will be made non assessable, non exempt (NANE) income for tax purposes.
- This measure will be extend to all States and Territories on an application basis but restricted to future grants program announcements for small and medium businesses facing similar circumstances to Victorian businesses.
- Eligibility for this treatment will be limited to grants announced on or after 13 September 2020 and for payments made between 13 September 2020 and 30 June 2021.

Business Taxation Measures

Clarifying the corporate residency test

- The law on corporate residency will 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 concept of 'significant economic connection to Australia' hinges on the facts that the company's core commercial activities are undertaken in Australia and its central management and control is in Australia.
- This measure is consistent with the Board of Taxation's key recommendation in its 2020 report: Review of Corporate Tax Residency and will mean the treatment of foreign incorporated companies will reflect the position prior to the High Court's 2016 decision in Bywater Investments Ltd v Federal Commissioner of Taxation

Increase the small business entity turnover threshold and extension of concessions - Income Tax, FBT, PAYG and GST

Access to small business tax concessions has been expanded with the small business entity turnover threshold for these benefits increased from $10m to $50m. Access to the concessions will occur in 3 phases:

From 1 July 2020	From 1 April 2021	From 1 July 2021
Eligible businesses will be able to immediately deduct specified start-up expenses and prepaid expenditure.	Eligible businesses will be exempt from the 47% FBT on car parking and multiple work related portable electronic devices.	• Eligible businesses will be able to access the simplified trading stock rules, remit pay as you go (PAYG) instalments based on GDP adjusted notional tax, and settle excise duty and excise equivalent customs duty monthly on eligible goods under the small business entity concession. • Eligible businesses will also have a two year amendment period apply to income tax assessments for income years starting from 1 July 2021 (this excludes businesses with complex dealings).

Moreover, from 1 July 2021 a simplified accounting method for GST purposes will now apply to businesses below the $50m aggregated turnover threshold.

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Federal Budget 2020/21

Business Taxation Measures (cont.)

Fringe Benefits Tax - exemption to support retraining and reskilling

An exemption from the 47% fringe benefits tax (FBT) will apply for employer provided retraining and reskilling benefits provided to employees that are redundant/soon to be redundant. This applies where the benefit may not be related to their current employment.

This measure aims to promote employers to retrain redundant employees opening new career options.

The exemption will not extend to retraining acquired by way of a salary packaging arrangement, Commonwealth supported places at universities or repayments towards Commonwealth student loans.

The government is also consulting to allow individuals to make a deduction for training expenses incurred that are not related to their current employment.

Fringe Benefits Tax — reducing the compliance burden of record keeping

New measures have been introduced to reduce compliance costs for employers. Subject to approval from the Commissioner of Taxation, employers will be allowed to rely on existing corporate records to finalise FBT returns instead of existing FBT substantiation requirements.

Currently, to comply with FBT legislation employers must often create additional records.

The new measure will have effect from the start of the first FBT year (April 1) after the date of Royal Assent of the enabling legislation.

International Taxation and Foreign Investment Measures

Updating the list of exchange of information jurisdictions - Managed Investment Trusts (MITs)

Effective from 1 July 2021, the list of jurisdictions that have an effective information sharing agreement with Australia will be updated which will add the Dominican Republic, Ecuador, El Salvador, Hong Kong, Jamaica, Kuwait, Morocco, North Macedonia and Serbia, and remove Kenya from the existing 122 jurisdictions on the list. These agreements form an important part of Australia's commitment to safeguard against offshore tax avoidance and evasion.

Residents of listed jurisdictions are eligible to access the reduced Managed Investment Trust (MIT) withholding tax rate of 15% instead of the default rate of 30% on certain distributions.

The measure will help maintain alignment between the actual relationships that have been established and the concessional MIT withholding rate, to encourage jurisdictions to establish information sharing agreements with Australia.

Strengthening Australia's Foreign Investment Framework

A new information and communications technology (ICT) platform will be implemented to support more effective and efficient foreign investment application processing and compliance activities across Government and a new consolidated Register of Foreign Ownership of Australian Assets. The Government will provide $86.3 million over four years to support this initiative.

This initiative is in addition to net funding of $54.1 million over four years announced in the July 2020 Economic and Fiscal Update, for Reforming Australia's Foreign Investment Framework.

The foreign investment fee framework will also be simplified and the fees will be revised from 1 January 2021. This measure is to ensure that foreign investors, not Australian taxpayers, will bear the costs of administering the foreign investment system.

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Federal Budget 2020/21

Personal Taxation Measures

Personal income tax cuts and Low and Middle Income Income Tax Offset (LMITO)

Stage 2 of personal income tax cuts have been brought forward by two years and LMITO retained for one more year

The Government announced that it will bring forward Stage 2 personal income tax cuts to 1 July 2020 (instead of 1 July 2022 as previously legislated in 2018).

Under the revised plan, from 1 July 2020:

- The upper income threshold of the 19% personal income tax bracket will increase from $37,000 to $45,000.
- The upper income threshold of the 32.5% personal income tax bracket will increase from $90,000 to $120,000.
- The Low Income Tax Offset (LITO) will increase from $445 to $700. Individuals who have a taxable income below $37,500 will be entitled to the full non-refundable tax offset. Above this amount, LITO is tapered off at two different levels. Individuals with taxable incomes between:
    - $37,500 and $45,000 will be tapered off at 5 cents per dollar, and
    - $45,000 and $66,667 will be tapered off at 1.5 cents per dollar.

The Government has also confirmed that the Low and Middle Income Tax Offset (LMITO) capped at $1,080 will be retained for another year for the 2020 21 income year, providing further targeted tax relief for low and middle income earners.

Resident tax rates with thresholds and LMITO table

The proposed income tax brackets from 1 July 2020 are as follows and will apply until 30 June 2024.

Tax Rates / LMITO	2019-20 Income Ranges	2020-21 (new) Income Ranges
Nil	$0 - $18,200	$0 - $18,200
19%	$18,201 - $37,000	$18,201 - $45,000
32.5%	$37,001 - $90,000	$45,001 - $120,000
37%	$90,001 - $180,000	$120,001 - $180,001
45%	$180,001+	$180,001+
Low and middle income tax offset (LMITO)	Up to $1,080	Up to $1,080
Low income tax offset (LITO)	Up to $445	Up to $700

The legislated changes as part of stage 3 of the personal income tax plan are unchanged and will commence on 1 July 2024.

Foreign residents

For 2020-21, the tax rates for foreign residents will be:

$0 - $120,000 - 32.5%;
$120,001 - $180,000 - 37%;
$180,001+ - 45%.

For 2024-25 and later income years, the tax rates for foreign residents are:

$0 - 200,000 – 30%;
$200,001+ - 45%.

Working holidaymakers

For 2020-21, the rates of tax for working holiday makers will be:

$0 - $45,000 – 15%;
$45,001 - $120,000 - 32.5%;
$120,001 - $180,000 – 37%;
$180,001+ - 45%.

For 2024-25 and later income years, the rates of tax for working holiday makers are:

$0 - $45,000 – 15%;
$45,001 - $200,000 – 30%;
$200,001+ - 45%.

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Federal Budget 2020/21

Superannuation Measures

The Government will provide $159.6 million over four years from 2020-21 to implement reforms to superannuation to improve outcomes for super fund members. The new measures will seek to reduce the number of duplicate accounts held by employees as a result of changes in employment and prevent new members joining underperforming funds.

- YourSuper portal - the Australian Taxation Office will develop systems so that new employees will be able to select a superannuation product from a table of MySuper products through the YourSuper portal;
- Stapled accounts - an existing superannuation account will be 'stapled' to a member to avoid the creation of a new account when that person changes their employment.
- MySuper benchmarking - from July 2021 the Australian Prudential Regulation Authority will conduct benchmarking tests on the net investment performance of MySuper products. The superannuation products that have underperformed over two consecutive annual tests will be prohibited from receiving new members.
- Super trustees - best financial interests duty – this measure is expected to improve transparency and accountability of superannuation funds by strengthening obligations on superannuation trustees to ensure their actions are consistent with members' retirement savings being maximised.

Modernising and expanding Australia's tax treaty network

The Government will support the recovery from COVID-19 by modernising and expanding Australia's tax treaty network to eliminate double taxation, settle taxing rights between Australia and other countries, and attract foreign investment and skilled workers.

Tax Compliance Enforcement Measures

Additional funding to address serious and organised crime in the tax and superannuation system

An additional $15.1 million in funding will be provided to the Australian Taxation Office (ATO) to target serious and organised crime in the tax and superannuation systems.

This will extend the original 2017/18 Federal Budget measure by a further two years to 30 June 2023.

If you would like more information or would like to discuss the 2020/21 Federal Budget tax update, please contact:

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