

# 2018/19 Federal Budget

## 1. Personal income tax changes

### 1.1 Personal income tax plan

The Government will introduce a seven-year, three-step, Personal Income Tax Plan, as follows:

#### Step 1: Targeted tax relief to low and middle income earners

The Government will introduce the **Low and Middle Income Tax Offset**, a *non-refundable* tax offset of up to \$530 per annum to Australian resident low and middle income taxpayers. The offset will be available for the 2019, 2020, 2021 and 2022 income years and will be received as a lump sum on assessment after an individual lodges their tax return.

The benefit of the proposed Low and Middle Income Tax Offset is as follows:

- Taxpayers with taxable incomes of \$37,000 or less will receive a benefit of up to \$200;
- For taxpayers with taxable incomes between \$37,000 and \$48,000, the value of the offset will increase at a rate of three cents per dollar to the maximum benefit of \$530;
- For taxpayers with taxable incomes from \$48,000 to \$90,000 a \$530 offset applies; and
- For taxpayers with taxable incomes from \$90,001 to \$125,333, the offset will phase out at a rate of 1.5 cents per dollar.

The benefit of the Low and Middle Income Tax Offset is *in addition to* the Low Income Tax Offset.

| LITO                    |                                      | LAMITO           |                                      |
|-------------------------|--------------------------------------|------------------|--------------------------------------|
| Current (2018 and 2019) |                                      | Proposed (2019)  |                                      |
| 0 – 37,000              | Up to \$445                          | 0 – 37,000       | Up to \$200                          |
| 37,001 – 66,666         | \$445 – 1.5% of excess over \$37,000 | 37,001 – 48,000  | \$200 + 3% of excess over \$37,000   |
| 66,667+                 | Nil                                  | 48,001 – 90,000  | \$530                                |
|                         |                                      | 90,001 – 125,333 | \$530 – 1.5% of excess over \$90,000 |
|                         |                                      | 125,334+         | Nil                                  |

#### Step 2: Protecting middle income Australians from bracket creep

The Government has proposed the following changes to the **personal income tax rates**:

1. From 1 July 2018, the Government will increase the top threshold of the 32.5% personal income tax bracket from \$87,000 to \$90,000. The rates below do not include the Medicare Levy.

| Rate  | Current (2018)       | Proposed (2019)             |
|-------|----------------------|-----------------------------|
| 0%    | 0 – \$18,200         | 0 – \$18,200                |
| 19%   | \$18,201 – \$37,000  | \$18,201 – \$37,000         |
| 32.5% | \$37,001 – \$87,000  | \$37,001 – <b>\$90,000</b>  |
| 37%   | \$87,001 – \$180,000 | <b>\$90,001</b> – \$180,000 |
| 45%   | \$180,001+           | \$180,001+                  |

2. From 1 July 2022, the Government will:

- extend the 19% personal income tax bracket from \$37,000 to \$41,000; and
- further increase the top threshold of the 32.5% personal income tax bracket from \$90,000 to \$120,000.

The Government has also proposed an increase to the **Low Income Tax Offset** from \$445 to \$645 from 1 July 2022. This offset will reduce at a rate of 6.5 cents per dollar between incomes of \$37,000 and \$41,000, and at a rate of 1.5 cents per dollar between \$41,000 and \$66,667.

### **Step 3: Ensuring Australians pay less tax by making the system simpler**

In the third step of the Personal Income Tax Plan the Government will simplify and flatten the personal tax system by **removing the 37% tax bracket entirely**. From 1 July 2024, the Government will extend the top threshold of the 32.5% personal income tax bracket from \$120,000 to \$200,000. The 32.5% tax bracket will apply to taxable incomes of \$41,001 to \$200,000 and taxpayers with taxable incomes exceeding \$200,000 will pay tax at the top marginal rate of 45%.

## **1.2 Changes to the Medicare levy low-income thresholds**

The Government will increase the Medicare levy low-income thresholds for singles, families, and seniors and pensioners from the 2018 income year, as follows:

- The threshold for **singles** will be increased from \$21,655 to \$21,980;
- The **family** threshold for will be increased from \$36,541 to \$37,089;
- The threshold for **single seniors and pensioners** will be increased from \$34,244 to \$34,758; and
- The **family** threshold for **seniors and pensioners** will be increased from \$47,670 to \$48,385.

For each dependent child or student, the family income thresholds increase by a further \$3,406, instead of the previous amount of \$3,356.

### **TAX TIP – Medicare levy to remain unchanged**

The Government has announced that it **will not proceed** with the previously announced increase in the Medicare levy from 2% to 2.5% of taxable income from 1 July 2019.

Consequential changes to other tax rates that are linked to the top personal tax rate, such as the fringe benefits tax rate, will also not proceed.

## **2. Changes affecting business taxpayers**

### **2.1 Extending the \$20,000 immediate write-off for small business**

The Government will extend the \$20,000 immediate write-off for small business by a further 12-months **to 30 June 2019** for businesses with aggregated annual turnover less than \$10 million.

Small businesses will be able to immediately deduct purchases of eligible assets costing less than \$20,000 first used or installed ready for use by 30 June 2019. Only a few assets are not eligible (such as horticultural plants and in-house software).

Assets valued at \$20,000 or more (which cannot be immediately deducted) can continue to be placed into the small business simplified depreciation pool (the pool) and depreciated at 15% in the first income year and 30% each income year thereafter. The pool can also be immediately deducted if the balance is less than \$20,000 over this period (including existing pools).

Further to this, the current 'lock out' laws for the simplified depreciation rules (preventing small businesses from re-entering the simplified depreciation regime for five years if they opt out) will continue to be suspended until 30 June 2019.

## **2.2 Removing tax deductibility of payments where withholding obligations have been disregarded**

From 1 July 2019, businesses will no longer be able to claim a deduction for the following payments:

- Payments to their employees such as wages where they have not withheld any amount of PAYG from these payments (i.e., despite the fact the PAYG withholding requirements apply).
- Payments made by businesses to contractors where the contractor does not provide an ABN and the business does not withhold any amount of PAYG (despite the withholding requirements applying).

## **2.3 Introduction of an economy-wide cash payment limit**

From 1 July 2019, the Government will introduce a **limit of \$10,000 for cash payments** made to businesses for goods and services. Currently, large undocumented cash payments can be used to avoid tax or to launder money from criminal activity. This measure will require transactions over a threshold to be made through an electronic payment system or cheque. Transactions with financial institutions or consumer to consumer non-business transactions will not be affected.

## **2.4 Expanding the contractor payment reporting system**

The contractor payment reporting system was first introduced in the building and construction industry and extended to the cleaning and courier industries from 1 July 2018. Under the contractor payment reporting system, businesses are required to report payments to contractors to the ATO. This brings payments to contractors in these industries into line with wages, which are reported to the ATO.

The Government has announced it will further expand the contractor payment reporting system to the following industries:

- security providers and investigation services;
- road freight transport; and
- computer system design and related services.

Businesses will need to ensure that they collect information **from 1 July 2019**, with the first annual report required in **August 2020**. A new online form will make the reporting process easier.

## **2.5 Alienating rights to partnership income (Everett assignments)**

From 7:30PM (AEST) on 8 May 2018, partners that alienate their income by creating, assigning or otherwise dealing in rights to the future income of a partnership will no longer be able to access the small business capital gains tax (CGT) concessions in relation to these rights.

The small business CGT concessions assist owners of small businesses by providing relief from CGT on the disposal of assets related to their business. However, some taxpayers, including large partnerships, are able to inappropriately access these concessions in relation to their assignment of a right to the future income of a partnership to an entity, without giving that entity any role in the partnership.

### **3. Superannuation related changes**

#### **3.1 Exemption from the work test for voluntary contributions**

From 1 July 2019, the Government will introduce an exemption from the work test for voluntary contributions to superannuation, for people aged 65-74 with superannuation balances below \$300,000, in the first year that they do not meet the work test requirements. Under current law, the work test restricts the ability to make voluntary superannuation contributions for those aged 65-74 to individuals who self-report as working a minimum of 40 hours in any 30 day period in the financial year.

The work test exemption will give recent retirees additional flexibility to get their financial affairs in order in the transition to retirement.

#### **3.2 Three-yearly audit cycle for some SMSFs**

From 1 July 2019, the Government will change the annual audit requirement to a three-yearly requirement for SMSFs with a history of good record-keeping and compliance. This measure will reduce red tape for SMSF trustees that have a history of three consecutive years of clear audit reports and that have lodged the fund's annual returns in a timely manner.

#### **3.3 Increasing the maximum number of allowable members in an SMSF and small APRA fund**

From 1 July 2019, the Government will increase the maximum number of allowable members in new and existing SMSFs and small APRA funds from four to six. This will provide greater flexibility for joint management of retirement savings, in particular for large families.

#### **3.4 Preventing inadvertent concessional cap breaches by certain employees**

From 1 July 2018, the Government will allow individuals whose income exceeds \$263,157, and who have multiple employers, to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG). The measure will allow eligible individuals to avoid unintentionally breaching the \$25,000 annual concessional contributions cap as a result of multiple compulsory SG contributions. Employees who use this measure could negotiate to receive additional income, which is taxed at marginal tax rates.

#### **3.5 Deductions for personal contributions**

The Government intends to improve the integrity of the 'notice of intent' ('NOI') processes for claiming personal superannuation contribution tax deductions. Currently, some individuals receive deductions on their personal superannuation contributions but do not submit a NOI, despite being required to do so. This results in their superannuation funds not applying the appropriate 15% tax to their contribution. As the contribution has been deducted from the individual's income, no tax is paid on it at all.

The additional funding will enable the ATO to develop a new compliance model, and to undertake additional compliance and debt collection activities. From 1 July 2018, the ATO will modify income tax returns to alert individuals to the NOI requirements with a tick box to confirm they have complied.

#### **3.6 Minor technical amendments**

The Government will make a series of minor amendments to Treasury portfolio legislation to clarify the law, correct technical or drafting defects, remove anomalies and address unintended outcomes.

The amendments include two changes that will be beneficial for superannuation funds and their members. These are technical amendments to the transition to retirement income stream rules relating to the death of a member and addressing double taxation in respect of deferred annuities purchased by a superannuation fund or retirement savings account.

Further information can be found in the *Explanatory Memorandum to the Treasury Laws Amendment (2018 Measures No. 4) Bill 2018*.

### **3.7 Capping passive fees, banning exit fees and reuniting small and inactive superannuation accounts**

From 1 July 2019, the Government will introduce a 3% annual cap on passive fees charged by superannuation funds on accounts with balances below \$6,000 and will ban exit fees on all superannuation accounts. The Government will also strengthen the ATO-led consolidation regime by requiring the transfer of all inactive superannuation accounts where the balances are below \$6,000 to the ATO. The ATO will expand its data matching processes to proactively reunite these inactive superannuation accounts with the member's active account, where possible.

### **3.8 Changes to insurance in superannuation**

The Government will change the insurance arrangements for certain superannuation members. Insurance within superannuation will move from a default framework to an opt-in basis for: members with low balances of less than \$6,000; members under the age of 25 years; and members whose accounts have not received a contribution in 13 months and are inactive.

The changes will take effect on 1 July 2019 — affected superannuants will have a period of 14 months to decide whether they will opt-in to their existing cover or allow it to switch off.

## **4. Changes affecting companies**

### **4.1 Division 7A changes**

From 1 July 2019, the Government will ensure that **unpaid present entitlements** ('UPEs') come within the scope of Division 7A of the *ITAA 1936*. This will apply where a related private company is made entitled to a share of trust income as a beneficiary but has not been paid. This measure will ensure the UPE is either required to be repaid to the private company over time as a complying loan under S.109N of the *ITAA 1936* or is subject to tax as a dividend.

The Government also announced that it will defer the start date of the *Ten Year Enterprise Tax Plan — targeted amendments to Division 7A* measure that was announced in the 2016-17 Budget from 1 July 2018 to 1 July 2019. Under this plan, the Government intends to make targeted amendments to improve the operation and administration of Division 7A of the *ITAA 1936*, including:

- a self-correction mechanism for inadvertent breaches of Division 7A;
- appropriate safe-harbour rules to provide certainty;
- simplified Division 7A loan arrangements; and
- a number of technical adjustments to improve the operation of Division 7A and provide increased certainty for taxpayers.

## 4.2 Reforms to combat illegal phoenixing

The Government will reform the corporations and tax laws and provide the regulators with additional tools to assist them to deter and disrupt illegal phoenix activity. The package includes reforms to:

- **extend the Director Penalty Regime** to GST, luxury car tax and wine equalisation tax, making directors personally liable for the company's debts;
- expand the ATO's power to **retain refunds** where there are outstanding tax lodgements;
- introduce new phoenix offences to target those who conduct or facilitate illegal phoenixing;
- prevent directors improperly backdating resignations to avoid liability or prosecution;
- limit the ability of directors to resign when this would leave the company with no directors; and
- restrict the ability of related creditors to vote on the appointment, removal or replacement of an external administrator.

## 4.3 Research and development tax incentive

The Government will amend the research and development (R&D) tax incentive to better target the program and improve its integrity and fiscal affordability with effect from 1 July 2018.

For companies with aggregated annual turnover of \$20 million or more, the Government will introduce an R&D premium that ties the rates of the non-refundable R&D tax offset to the incremental intensity of R&D expenditure as a proportion of total expenditure for the year. The marginal R&D premium will be the claimant's company tax rate plus:

- 4 percentage points for R&D expenditure between 0% to 2% R&D intensity;
- 6.5 percentage points for R&D expenditure above 2% to 5% R&D intensity;
- 9 percentage points for R&D expenditure above 5% to 10% R&D intensity; and
- 12.5 percentage points for R&D expenditure above 10% R&D intensity.

The R&D expenditure threshold — the maximum amount of R&D expenditure eligible for concessional R&D tax offsets, will be increased from \$100 million to \$150 million per annum.

For companies with aggregated annual turnover below \$20 million, the refundable R&D offset will be a premium of 13.5 percentage points above a claimant's company tax rate. Cash refunds from the refundable R&D tax offset will be capped at \$4 million per annum. R&D tax offsets that cannot be refunded will be carried forward as non-refundable tax offsets to future income years.

Refundable R&D tax offsets from R&D expenditure on clinical trials will not count towards the cap.

## 5. Changes affecting trusts

### 5.1 Improving the taxation of testamentary trusts

From 1 July 2019, the concessional tax rates available for minors receiving income from testamentary trusts will be limited to income derived from assets that are transferred from the deceased estate or the proceeds of the disposal or investment of those assets.

Currently, income received by minors from testamentary trusts is taxed at normal adult rates rather than the higher tax rates that generally apply to minors. However, some taxpayers are able to inappropriately obtain the benefit of this lower tax rate by injecting assets unrelated to the deceased estate into the testamentary trust. This measure will clarify that minors will be taxed at adult marginal tax rates *only* in respect of income a testamentary trust generates from assets of the deceased estate (or the proceeds of the disposal or investment of these assets).

## **5.2 Extending anti-avoidance rules for circular trust distributions**

From 1 July 2019, the Government will extend a specific anti-avoidance rule to family trusts that applies to other closely held trusts that engage in circular trust distributions.

Currently, where family trusts act as beneficiaries of each other in a 'round robin' arrangement, a distribution can be ultimately returned to the original trustee — in a way that avoids any tax being paid on that amount. This measure will better enable the ATO to pursue family trusts that engage in these arrangements by extending the specific anti-avoidance rule, imposing tax on such distributions at a rate equal to the top personal tax rate plus the Medicare levy.

## **6. Other income tax changes**

### **6.1 Deductions denied for vacant land**

**From 1 July 2019**, the Government will deny deductions for expenses associated with **holding vacant residential or commercial land**, including interest incurred to finance the acquisition of the land. Deductions for expenses associated with holding the land will be available once a property has been constructed on the land, it has received approval to be occupied and is available for rent.

Denied deductions will not be able to be carried forward for use in later income years, however, denied deductions can be included in the cost base of the land (but only if the expense qualifies as an element of cost base under the usual rules).

This proposed measure is intended to apply to all entities (e.g., individuals, trusts, companies) however an exclusion applies for vacant land that is held by an entity that is carrying on a business, which would include a business of primary production.

### **6.2 Taxation of income for an individual's fame or image**

**From 1 July 2019**, high profile individuals are no longer able to take advantage of lower tax rates by licencing their fame or image to another entity.

High profile individuals (such as sportspeople and actors) can currently licence their fame or image to another entity such as a related company or trust. Income for the use of their fame or image goes to the entity that holds the licence. This creates opportunities to take advantage of different tax treatments and facilitates misreporting and incorrect tax outcomes.

This measure will ensure that all remuneration (including payments and non-cash benefits) provided for the commercial exploitation of a person's fame or image will be included in the assessable income of that individual.

## **7. GST changes**

### **7.1 Extended GST for offshore sellers of hotel accommodation**

From 1 July 2019, the Government will extend the GST by ensuring that offshore sellers of hotel accommodation in Australia calculate their GST turnover in the same way as local sellers.

Currently, unlike GST-registered businesses in Australia, offshore sellers of Australian hotel accommodation are exempt from including sales of hotel accommodation in their GST turnover. This means they are often not required to register for and charge GST on their mark-up over the wholesale price of the accommodation. The exemption was introduced in 2005, when most offshore sales of Australian hotel rooms were to foreigners booking through offshore tour operators, and the online booking market was small.

Both Australian and foreign consumers are increasingly booking Australian hotel rooms through online services based offshore, which are taking advantage of the exemption designed for offshore tour operators. Removing the exemption will level the playing field by ensuring the same tax treatment of Australian hotel accommodation, whether booked through a domestic or offshore company.

This measure follows the Government's decision to extend the GST to digital products and other services from 1 July 2017 and to low value imported goods from 1 July 2018.

## **8. Other budget announcements**

### **8.1 Removing the CGT discount at trust level for Managed Investment Trusts**

From 1 July 2019, the Government will prevent Managed Investment Trusts ('MITs') and Attribution MITs ('AMITs') from applying the 50% capital gains discount at the trust level. Under the measure, MITs and AMITs that derive a capital gain will still be able to distribute this income as a capital gain that can be discounted in the hands of the beneficiary (provided the beneficiary is eligible).

### **8.2 Compliance activities targeting individuals and their tax agents**

The Government will provide \$130.8 million to the ATO from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents. The ATO has identified a number of significant compliance issues for individual taxpayers. This measure will continue four income matching programs that would otherwise terminate from 1 July 2018 to allow the ATO to detect incorrect reporting of income, such as foreign source income of high wealth individuals. The measure will also provide funding for new compliance activities, including additional audits and prosecutions, improving education and guidance materials and pre-filling of income tax returns.

### **8.3 Income tax exemption for certain Veteran Payments**

From 1 May 2018, the Government exempted certain Veteran Payments from income tax. From this date, supplementary amounts (such as the pension supplement, rent assistance and remote area allowance) of Veteran Payments paid to a veteran, and full payments (including the supplementary component) made to the spouse or partner of a veteran who dies, are exempt from income tax.

### **8.4 Tightening concessions for foreign investors**

The Government will introduce a package of measures to address risks to the corporate tax base posed by stapled structures and similar arrangements. The package will also limit access to concessions for passive income utilised by foreign governments and foreign pension funds. Some key elements of the package include the following changes, which take effect from 1 July 2019 subject to transitional rules:

- applying a final withholding tax set at the corporate tax rate (currently 30%) to distributions derived from trading income that has been converted to passive income using a MIT, excluding rent received from third parties. A 15 year exemption is available from this element of the package for new, Government-approved nationally significant infrastructure staples;
- limiting the foreign pension fund withholding tax exemption for interest and dividends to portfolio investments only. As a result interest and dividend income derived by foreign pension funds from non-portfolio investments will be subject to withholding tax;
- creating a legislative framework for the existing tax exemption for foreign governments (including sovereign wealth funds), and limiting the exemption to portfolio investments. As a result, income derived by foreign government investors from non-portfolio investments will be taxed; and
- investments in agricultural land will not be able to access the 15% concessional MIT withholding tax rate.