2021 FEDERAL BUDGET SNAPSHOT

Resilience In The Face Of COVID

The 2021-22 Federal Budget was announced by the Treasurer, Josh Frydenberg, on 11 May 2021. This Federal Budget was handed down in the context of three key overarching events: the ongoing uncertainty caused by the global coronavirus pandemic, economic recovery from the downturn resulting from the pandemic and an upcoming Federal election. It's no surprise therefore that the Budget was a spending-oriented Budget. As was earmarked in the media prior to the Budget, key to this spending was an additional $17.7 billion allocated to the aged care sector, $1.7 billion additional funding for childcare and a proposed investment of $15.2 billion on infrastructure projects nationally.

Revenue measures were largely focused on extending tax cuts and other concessions announced in prior Budgets.

All of this comes at a significant cost to future generations as Australia is forecast to hit a net debt level of almost $1 trillion by 2024-25.

PKF tax experts from across Australia analyse the key tax measures that will impact you:

COVID-19 relief for businesses – extensions

In the December 2020 quarter, investment in machinery and equipment increased at the fastest quarterly rate in nearly seven years. To encourage continued business investment in fixed assets, the Temporary Full Expensing of Assets measures, which allow an immediate deduction in certain circumstances for the acquisition of depreciable assets, will be extended by a further year to cover assets acquired from 6 October 2020 and first used or installed ready for use by 30 June 2023. In conjunction, the Temporary Loss Carry Back rules will also be extended by a further year to allow eligible companies to carry back losses from the 2022-2023 income year to offset previously taxed profits as far back as the 2018-2019 income year.

COVID-19 relief for individuals - extensions

Tax measures impacting individuals have been extended in this Budget, including:

- Low and middle income tax offset 'LMITO' extended to 30 June 2022 from 30 June 2021, meaning up to $1,080 of tax savings continue.
- Superannuation work test removed for those age 67 to 74 for non-concessional and salary sacrificed contributions. Expected commencement date from 1 July 2022.
- Reducing eligibility age for downsizer contributions to super to 60 from 65. Expected commencement date from 1 July 2022.

Self-assessing the effective life of intangible depreciating assets

The tax effective lives of eligible intangible depreciating assets are currently set by statute and is broadly included in the table below:

Asset	Effective life in years
Standard Patent	20
Registered Designs	15
Copyright	25 or period until the copyright ends
In-house software	5

Under the proposed measure, there will be an ability to self-assess the tax effective lives of intangible assets. This will allow for better alignment of tax outcomes and potentially bringing forward depreciation in line with the commercial useful life of the asset rather than the prescribed effective life.

This will apply to assets acquired from 1 July 2023.

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Patent Box Concession

A limited patent box tax regime was announced as a means of encouraging innovation in Australia. The Patent Box, applying from 1 July 2022, will ensure that eligible companies are taxed at an effective corporate tax rate of 17% on income derived from Australian owned and developed patents. The concession will initially be limited to Australian medical and biotechnology patents but the Government has also committed to consult on whether the Patent Box should also be extended to the clean energy sector.

It is hoped that the requirement for domestic development will encourage additional investment and hiring in research and development and encourage companies to develop their innovations in Australia. However, this limited regime will be contrasted with similar regimes internationally, such as in the UK, where a similar regime applies at a 10% effective corporate tax rate and operates more broadly than that intended for Australia.

Residency

The current tax residency tests for individuals will be replaced with a simpler framework, highlighted by a bright-line test based on the individual spending more than 183 days in Australia. Failing this, further secondary tests having regard to measurable and objective criteria will be applied. This measure is expected to provide greater certainty and reduced compliance costs for an increasing number of globally mobile employees.

SMSFs will find it easier to retain their Australian residency with the removal of the active member test and a relaxing of the central management and control test safe harbour from 2 to 5 years. This will allow a greater number of SMSF members to continue to contribute to their fund whilst temporarily overseas.

Both measures will apply from the first income year following Royal Assent of the relevant legislation.

Employee Share Schemes (ESS)

The cessation of employment as a taxing point will be removed allowing a potential further deferral of tax by the employee. It will apply to ESS interests issued from the first income year after the date of Royal Assent of the enabling legislation. This will create some uncertainty as to whether it will apply from 1 July 2022 or 1 July 2023, depending on when Royal Assent is received.

In addition, ASIC reporting obligations will be reduced for unlisted companies offering ESS interests valued at less than $30,000 per employee per year and for employers that do not charge or lend employees funds to acquire the interests.

Removal of Superannuation Guarantee Threshold

Under the current rules, employees earning less than $450 per month are not required to be paid the superannuation guarantee by their employer.

This will be abolished from 1 July 2022 to improve fairness and reduce incentives to unnecessary casualisation.

ATO debt recovery action

Small businesses with an aggregated turnover of less than $10 million will be able to pause or modify ATO debt recovery actions in relation to disputed debt under the proposed extension of the Administrative Appeals Tribunal (AAT) powers.

This measure will assist small businesses in placing a hold on or modifying their disputed tax debt without incurring the costly court and legal fees under the current system, providing reprieve to affected small businesses.

Not-for-profits (NFP)

From 1 July 2023, NFPs ATO compliance will be increased to include a self-assessment of the income tax exempt status annually.