

Australia is coming back!

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The Federal Treasurer of Australia, Mr Josh Frydenberg, handed down the 2021-22 Federal Budget on 11 May 2021.

Against the backdrop of a once in a lifetime pandemic and the biggest global economic shock since the Great Depression, the Treasurer advised that *'Australia is coming back!'*

The Treasurer confirmed that at the start of the pandemic, Treasury feared that unemployment could reach 15%. However, notwithstanding this fear, the Treasurer advised that Australia is currently ahead of any major economy and that Australia has now seen employment go above its pre-pandemic levels. The economy is forecast to grow by 1 ¼ per cent in 2020-21, rising to 4 ¼ per cent in 2021/22.

One commentator, when being interviewed by the ABC, referred to the Budget as a Hot Chocolate Budget! In light of the COVID-19 driven downturn, the Budget is clearly designed to protect and grow the Australian economy. Whilst the major focus of the Treasurer's speech was on expenditure, some key tax initiatives relevant to business are outlined in the following sections.

Entities and Business

International tax

Superannuation

Excise and Import duties

Individuals

Not-for-profits

Entities and Business

- Temporary full expensing of eligible assets will be extended by 12 months to 30 June 2023. Eligible businesses with aggregated turnover or income less than \$5 billion will be able to deduct the full cost of eligible depreciating assets acquired from 7:30pm AEDT on 6 October 2020 and first used or installed ready for use by 30 June 2023.
- The temporary loss carry back offset will be extended by one year to apply for 2022–23 income year losses. Eligible corporate tax entities with aggregated turnover less than \$5 billion will be able to carry back losses from the 2022–23 income year to offset previously taxed profits made in or after the 2018–19 income year. The loss that can be carried back is limited by the amount of earlier taxed profits and cannot generate a franking account deficit.
- Extended powers for the AAT to pause or modify ATO debt recovery action for small business taxation decisions.
- The cessation of employment taxing point will be removed for tax-deferred employee share schemes that are available for all companies.

- A refundable tax offset for investing in qualifying Australian games expenditure will be introduced from 1 July 2022.
- Taxpayers with certain intangible depreciating assets will be given the choice of using the statutory effective life or self-assessing the decline in value from 1 July 2023.
- Corporate income derived from Australian medical and biotechnology patents in income years starting on or after 1 July 2022 will be taxed at a concessional rate of 17%.
- Income tax exemption for qualifying grants made to primary producers and small businesses affected by the storms and floods in Australia.
- A new early engagement service will be implemented to assist foreign investors and give them confidence to invest in Australian businesses.
- The corporate collective investment vehicle tax and regulatory framework will be finalised with a revised start date of 1 July 2022.
- Technical amendments will be made to the taxation of financial arrangements rules which will include facilitating access to hedging rules on a portfolio hedging basis.
- The heavy vehicle road user charge will be increased from 25.8 cents per litre to 26.4 cents per litre from 1 July 2021.
- The Boosting Apprenticeship Commencements wage subsidy will be expanded.

International tax

- The list of jurisdictions that have an effective information sharing agreement with Australia will be updated.
- New Zealand will maintain its primary taxing right over members of its sporting teams and support staff located in Australia due to COVID-19.
- The government will consult on clarifying residency tests for trusts and corporate limited partnerships in addition to the review announced in last year's budget.

Superannuation

- From 1 July 2022, individuals aged 67 to 74 will no longer be required to meet the work test when making non-concessional superannuation contributions or salary sacrificed contributions.
- From 1 July 2022, the eligibility age to make downsizer contributions into superannuation will be reduced from 65 to 60 years of age.
- The maximum amount of contributions that can be released from superannuation under the first home super saver scheme (FHSSS) will be increased from \$30,000 to \$50,000 from 1 July 2022.
- Technical amendments will be made to the first home super saver scheme (FHSSS) legislation to improve its operation and assist those who make errors in their FHSSS

release applications.

- The central management and control safe harbour test for an SMSF to be considered an Australian superannuation fund will be extended from 2 years to 5 years. Also, the active member test will be removed.
- Pensioners with a market-linked, life expectancy or lifetime pension in their superannuation fund will be granted a 2-year window in which they can choose to commute the outstanding benefit plus any associated reserves into a contemporary superannuation pension.
- The government will not proceed with a measure to extend early release of superannuation to victims of family and domestic violence.
- The ATO will be given additional funding to administer the transfer of unclaimed superannuation money directly to KiwiSaver accounts.
- Superannuation guarantee exemption for employees earning less than \$450 in a month will be removed.

Excise and Import duties

- Excise relief for small brewers and distillers will be expanded.
- The automotive research and development tariff concession will be extended for 4 years until 30 June 2025.

Individuals

- The low and middle income tax offset (LMITO) will be extended for another year into 2021–22. The LMITO was due to be removed on 30 June 2021.
- The individual tax residency rules will be replaced by a new framework with a primary physical presence test. Under the new primary test, a person who is physically present in Australia for 183 days or more in any income year will be an Australian tax resident for tax purposes. Individuals who do not meet the primary test will be subject to secondary tests that consider a combination of physical presence and other measurable, objective criteria.
- The current limitation for individuals claiming self-education expenses, where the first \$250 of the deduction is denied, will be removed.
- The CPI indexed Medicare levy low-income threshold amounts for singles, families, and seniors and pensioners for the 2020–21 year of income have been announced.

Not-for-profits

- From 1 July 2023 income tax exempt NFPs with an active ABN will be required to submit the information used to self-assess their eligibility for the exemption in an online annual self-review form.
- Australian Associated Press Ltd, Virtual War Memorial Limited and Scripture Union Queensland have been added to the list of specifically listed DGRs for a period beginning 1 July 2021.
- Cambridge Australia Scholarships Limited and Foundation 1901 Limited have had their DGR status extended by 5 years.

Conclusion

The Treasurer confirmed that the Pandemic is far from over and the global economic environment remains uncertain. However, Australia is now well on the road to recovery. The Treasurer said 'jobs are coming back...the economy is coming back...Australia is coming back!'

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