

# TAX MATTERS

TAX STRATEGIES FOR YOU AND YOUR BUSINESS

**BUDGET**  
EDITION  
37-2020

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## What you need to know about JobMaker

Job losses have been extensive during the COVID-19 pandemic and the JobMaker Hiring Credit will give businesses incentives to take on additional employees aged between 16 and 35 years old.

Eligible employers will receive \$200 a week for each new employee aged between 16 and 29. For new eligible employees aged 30 to 35, they'll receive \$100 a week. Businesses and employees will need to satisfy specific eligibility requirements.

For an employer to be eligible they must have an Australian Business Number and be up to date with their tax lodgement obligations, registered for Pay As You Go (PAYG), and

be reporting through Single Touch Payroll. Employers will not be eligible if they are also claiming JobKeeper Payment.

To receive the JobMaker Hiring Credit, employers must also meet additionality criteria, requiring an increase in the:

- Business' total employee headcount from 30 September 2020; and
- Payroll of the business for the reporting period, as compared to the three months to 30 September 2020.

The JobMaker Hiring Credit will be available to employers for each new job they create over the next 12 months for which they hire an eligible

young person. The employee must work at least 20 paid hours per week on average and may be employed on a permanent, casual or fixed term basis. The employee must also have received the JobSeeker Payment, Youth Allowance or Parenting Payment for at least one of the three months preceding the time of hiring.

The JobMaker Hiring Credit will start on 7 October 2020. The Hiring Credit will be claimed quarterly in arrears by the employer from the Australian Tax Office (ATO) from 1 February 2021. Employers will need to report to the ATO quarterly that they meet the eligibility criteria.

Registrations will be open for eligible employers through ATO online services from 7 December 2020.

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# Correctly using the margin scheme

Knowing whether your property is eligible for the margin scheme can save you from paying extra money in tax. The margin scheme is a way of working out the GST you must pay when you sell property as part of your business.

The amount of GST normally paid on a property sale is equal to one-eleventh of the total sale price. If the margin scheme is used, the GST is calculated on the difference between the sale price and your purchase price of the property or the property's value. You can only apply the margin scheme if the sale of the property is taxable.

The margin scheme has been designed by the ATO to help reduce the amount of GST that would normally be payable on sales of new property. It is not an automatic concession and the sale must be eligible for it to be applied.

The margin scheme can be applied to subsequent property sales depending on the original date

of purchase and how GST was applied at that time. Property purchases prior to 1 July 2000 are eligible, as the property had not been subject to GST previously. For property purchases after 1 July 2000, the margin scheme may only apply to a subsequent sale when:

- The original seller of the property wasn't registered for GST.
- The property was purchased as an existing residential premises.
- The original seller sold the property as a GST-free supply and was eligible to use the margin scheme, or;
- The seller sold the property and applied the margin scheme at that time.

There are limitations to the margin scheme in some situations such as; inheritances, the supplier being a member of a GST group or the property is GST-free (going concern or farmland). In these situations, if the supplier wasn't eligible to use the margin scheme, the scheme cannot be used when selling the property.

When purchasing a new residential property with the margin scheme being a part of the property transaction, withhold 7% of the contract price, including GST and the market value of non-monetary consideration. This amount will then be paid to the ATO at settlement.



## Lower taxes for businesses and individuals

The Budget seeks to promote tax reform and simplification in an effort to support business investment and help reduce the personal income tax burden.

### Business

Businesses are encouraged to invest with the introduction of temporary full expensing. Businesses with a turnover of up to \$5 billion will be able to deduct the full cost of eligible

depreciable assets of any value in the first year they are used or installed ready for use, from now till end of June 2022. Costs of improvements to these eligible depreciable assets can also be deducted. Through the reduction of after-tax costs of eligible expenses, full expensing supports businesses that are investing and helping stimulate the economy. Eligible new or second-hand assets acquired under the enhanced \$150,000 instant asset write-off by the end of this year will receive an additional 6 months (30 June 2021) to use or install those assets.

Temporary loss carry-back will provide businesses the opportunity to offset tax losses. Companies with a turnover of up to \$5 billion will be able to offset tax losses against previous profits on which tax has been paid to generate a refund. Any losses incurred from 2019-20, 2020-21, 2021-22 may be carried back against profits made during, or after 2018-19. To receive this support, applications to receive a tax refund may be lodged during the 2020-21 or 2021-22 tax returns.

Measures have been taken to expand and modernise the tax treaty network. This involves eliminating double taxation in an effort to attract foreign workers, simplifying taxing rights between Australia and other countries and boosting

foreign investment in Australia. The initiative reduces tax barriers to prioritise reinstating Australia's treaties with important partners to relieve economic burden. The Research and Development Tax Incentive (R&DTI) will ensure businesses of every size are receiving the support they require in these areas.

Changes have been made to recordkeeping provisions as the government maintains its efforts to cut down red tape. Businesses will no longer need complete prescribed records, instead they will be able to use existing corporate records to reduce the time and manpower spent on recordkeeping.

### Individuals

Both low and middle income earners will also be receiving tax relief in the coming years. The government has brought forward their plans for tax cuts to make sure that families are keeping more of what they earn. Taxpayers will be receiving relief of up to \$2,745 for singles and \$5,490 for dual income families. The provision of a simpler tax system and lower taxes, which will be implemented in 3 stages, has increased the threshold of the 32.5% tax bracket from \$90,000 to \$120,000. Tax relief to individuals is expected to encourage spending and stimulate the economy.

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# Insolvency reforms to support small business

The government recognises that despite support to get through the COVID-19 outbreak, not all businesses are going to remain viable.

Many small businesses will have significantly increased levels of debt in order to remain in business during the COVID-19 pandemic. The government is introducing a number of permanent and temporary measures to expand the availability of insolvency practitioners to deal with this expected increase in the number of businesses seeking to restructure or liquidate.

The package of reforms features three key elements:

## Debt Restructuring

Currently, requirements around voluntary administration in Australia are more suited to large, complex company insolvencies. The new debt restructuring process will adopt a 'debtor possession model' where the business can continue to trade under the control of its owners, while a debt restructuring plan is developed and voted on by creditors.

## Liquidation Pathway

The costs of liquidation can consume all or almost

all of the remaining value of a small business, leaving little for creditors. Under the government's new process, regulatory obligations will be simplified, so that they are commensurate to the asset base, complexity and risk profile of an eligible small business.

## Temporary Relief Measures Extended

The government announced a further extension of relief measures to 31 December 2020. The temporary increase in the threshold at which creditors can issue a statutory demand on a company from \$2,000 to \$20,000; and a temporary increase in the time companies have to respond to statutory demands they receive from 21 days to 6 months. In addition, there is temporary relief for directors from any personal liability for trading while insolvent, with respect to any debts incurred in the ordinary course of the company's business.

The temporary relief measures give businesses needed breathing space and highlight the importance of working with financial professionals as soon as required, ensuring that your small business has the best chance of success.



## Upskilling Australia

The Budget highlights the government's commitment to getting people back in jobs and upskilling Australians.

The JobTrainer Fund which falls under the JobMaker Plan will support up to 340,700 free or low-fee training places in areas needed to help upskill and retrain job seekers and young people.

The government will provide exemptions for employer-provided retraining activities from business' fringe benefits tax and is also consulting on updating the current rules to allow individuals to deduct training costs from their income which relates to their future employment.

The Boosting Apprenticeship Commencements Wage Subsidy will boost the number of new apprenticeships and traineeships. This will support up to 100,000 new apprentices and trainees by paying a 50% wage subsidy. Businesses will receive the subsidy up to a cap of \$7,000 per quarter, for commencing apprentices and trainees until 30 September 2021.

Economic security for women is also being prioritised under the Budget. Several initiatives will work to support the increase of women's workforce participation and improvement of earning potential. They include initiatives to support women's leadership and development and increasing opportunities for women in science, technology, engineering and mathematics (STEM), business and male-dominated industries.

# Tax payable on super death benefits

Tax considerations are lowest on the list of priorities when a loved one passes away, but there are some things you should know. Tax on superannuation death benefits can be treated in various ways depending on how super is paid (income stream, lump sum) or whether beneficiaries are classified as tax dependants.

Those who would classify as a tax dependant, under both superannuation and taxation law, usually include current and former spouses and de-facto spouse, children under the age of 18, or a person in an "interdependency relationship" with the deceased person, meaning they lived with each other or provided support (financial, domestic or personal). Dependants will need to work out how much of the death benefit qualifies as a tax-free as well as the taxable component the super provider has paid tax on or has not paid tax on.

For taxable super received as an income stream, the tax treatment is dependent on the age of the deceased and the beneficiary. If both participants are under 60, then there will be a tax offset equal to 15% of the dependant's assessable income, including the death benefit. If both participants are over 60 and the super is paid from a taxed

superannuation fund, it is tax free. A non-dependant cannot take the death benefit as an income stream under superannuation law.

Super death benefits are not taxed when they are paid as a lump sum and go directly to tax-dependants or legal representatives. However, super benefits paid to a non-tax dependant will be taxed at the marginal tax rate.

Non-tax dependants don't need to pay on the tax-free component of the death benefit, regardless of how the payment is received, their age, or the age of the deceased.



# Changes to the super system

The Budget seeks to address various shortcomings in the superannuation system

## Unintended multiple accounts

One of the consequences of changing employers is the creation of multiple accounts. These result in unnecessary fees, and reduce retirement savings. Under the Budget, the proposal is that individual's super is 'stapled' to them. Stapling means that the individual keeps their super fund when they change jobs. The employer will pay super to the attached fund, and only change if the individual selects to.

## Paying too much

Super fees are being paid on unused accounts, causing an erosion of retirement savings. 'YourSuper' allows comparison between fees and payments across different super funds so that individuals are able to make informed decisions about their super.

## Underperforming products

Not all super funds perform equally. This can lead to an inequitable retirement result for individuals. MySuper products will now undergo an annual performance test to level the playing field. Funds will be required to notify their members if they are deemed to be underperforming and if they fail the test twice consecutively, they will not be able to accept new members until their performance improves. This will give members more information and the opportunity to choose what they can do if their fund is underperforming.

## Lack of accountability and transparency

Currently, members are not informed about how their money is being invested, and whether it is being invested appropriately. Through this initiative, super trustees will be required to provide members with key

information regarding how they manage and spend their money ahead of Annual Members' Meetings. They are also required to comply with a new duty to act and must demonstrate that there was a reasonable basis to support their actions being consistent with members' best financial interests. This increase in transparency and accountability will allow members to make decisions regarding their super before it's too late.



## Disclosing personal living expenses to the ATO

Fulfilling the ATO's requests for information which can help identify unreported cash income when looking at household expenditure is important.

The ATO assesses an individual's tax affairs by providing questionnaire worksheets which individuals must accurately complete. They are required to give information on living expenses, or even their businesses and record-keeping practices.

The questionnaire worksheet outlines what the tax office looks at when examining personal living expenses. The worksheets can be used at any time by individuals to:

- Compare their household income to expenses and assess if their declared income is enough to support their lifestyle.
- Review their record keeping.
- Make adjustments to their reported income.
- Consider whether making a voluntary disclosure is necessary.

Discrepancies in tax returns that have been discovered by individuals can be adjusted through voluntary disclosure. Making a voluntary disclosure will enable correction of tax affairs without admitting liability. Individuals would still have to pay any tax owed, interest and penalties applied. Taxpayers that voluntarily inform the ATO of mistakes before an audit may be eligible for reduced penalties.

# CGT concessions for small businesses: Active Asset test

Qualifying for the Active Asset test can mean your business receives CGT concessions.

An owned asset is considered active if you are using it, or it is read for use for business. You can also have an intangible active asset if it is inherently connected with a business you carry on.

An active asset of yours has been held for a certain amount of time, based on how long you have owned the asset and the test period to meet the requirements of the Active Asset test. The test period begins when you acquired the asset, and ends at the earlier of

- The CGT event, or;
- When the business ceased, if the business in question ceased in the 12 months before the CGT event.

Assets owned for over 15 years need to have been held for at least 7.5 years within the test period and assets owned for 15 years or less need to have been held for at least half of the test period to satisfy requirements.

Passing the basic Active Asset test is not enough to qualify for CGT concessions for assets such as shares or trusts. In addition, the asset will need to pass a further test, called the 90% test, to

determine whether it is to be counted as an active asset or not. The test is satisfied if CGT concession stakeholders in the company or trust in which the shares or interest are held have a total small business percentage in the entity claiming the concession of at least 90%.

The periods in which the asset is active does not have to be continuous, however, they must total the minimum periods specified. An asset does not need to be active just before the CGT event.

