

Federal Budget 2018-19 Tax & Accounting Overview

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Highlights

2018/19 Federal Budget Highlights

Mr Scott Morrison, the Federal Treasurer, handed down his third Budget on 8 May 2018.

Mr Morrison said the Budget is focused on further strengthening the economy to “guarantee the essentials Australians rely on” and “responsibly repair the budget”. With a deficit of \$18.2b in 2017/18 and \$14.5b in 2018/19, the Budget is forecast to return to a balance of \$2.2b in 2019/20 and a projected surplus of \$11b in 2020/21.

The government is proposing a three-step, seven-year plan to make personal income tax “lower, fairer and simpler”. The Budget also contains additional measures to counter the black economy, particularly in response to the final report from the Black Economy Taskforce, including expanding the taxable payments reporting system. Additionally, the Budget contains a range of measures intended to ensure the integrity of the tax and superannuation system.

The full Budget papers are available at www.budget.gov.au and the Treasury ministers’ media releases are available at ministers.treasury.gov.au.

The tax and superannuation highlights are set out below.

Individuals

- A seven-year Personal Income Tax Plan will be implemented in three steps, to introduce a low and middle income tax offset, to provide relief from bracket creep and to remove the 37% personal income tax bracket.
- The Medicare levy low-income thresholds for singles, families, seniors and pensioners will be increased from the 2017/18 income year.
- The 2017/18 Federal Budget measure to increase the Medicare levy from 2% to 2.5% of taxable income from 1 July 2019 will not proceed.
- Supplementary amounts (such as pension supplement, rent assistance and remote area allowance) 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 from 1 May 2018.
- Schemes to license a person’s fame or image to another entity such as a related company or trust to avoid income tax will be curtailed.
- The ATO will be provided with \$130.8m from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents.

Income tax

- Significant changes to the calculation of the R&D tax incentive will commence for income years beginning on or after 1 July 2018. Additionally, a maximum cash refund will also apply for some entities.
- The \$20,000 instant asset write-off will be extended for small businesses by another year to 30 June 2019.

- Amendments to Div 7A will strengthen the unpaid present entitlements (UPE) rules from 1 July 2019.
- The start date of targeted amendments to Div 7A will be deferred from 1 July 2018 to 1 July 2019.
- Deductions for expenses associated with holding vacant land not genuinely used to earn assessable income will be denied.
- The small business capital gains tax (CGT) concessions will not apply to partners alienating rights to future partnership income.
- Payments to employees and contractors are no longer deductible where any amounts that are required to be withheld are not paid, from 1 July 2019.
- The definition of a “significant global entity” (SGE) will be broadened to include more large multinational groups, from 1 July 2018.
- The thin capitalisation rules will be amended, effective 1 July 2019, to require entities to align the value of their assets for thin capitalisation purposes with the value included in their financial statements.
- The thin capitalisation rules will be amended, effective 1 July 2019, to treat certain consolidated groups and multiple entry consolidated groups as both outward and inward investment vehicles for thin capitalisation purposes.
- Tax exempt entities that become taxable after 8 May 2018 will not be able to claim tax deductions that arise on the repayment of the principal of a concessional loan.
- The 50% capital gains discount for managed investment trusts (MITs) and attribution MITs (AMITs) will be removed at the trust level.
- A specific anti-avoidance rule that applies to closely held trusts engaging in circular trust distributions will be extended to family trusts.
- The concessional tax rates for the income of minors from testamentary trusts will not be available for trust assets unrelated to the deceased estate.
- A five year income tax exemption will be provided to a subsidiary of the International Cricket Council (ICC) for the ICC World Twenty20 to be held in Australia in 2020.
- The list of countries whose residents are eligible to access a reduced withholding tax rate of 15% on certain distributions from Australian managed investment trusts (MITs) will be updated.
- Six more organisations have been approved as specifically-listed deductible gift recipients.

Superannuation

- The maximum number of allowable members in SMSFs and small APRA funds will be increased to six from 1 July 2019.
- The annual audit requirement for self-managed superannuation funds will be changed to a three-yearly requirement for funds with a history of good record keeping and compliance.
- Individuals whose income exceeds \$263,157, and have multiple employers, will be able to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG) from 1 July 2018.

- Individuals will be required to confirm in their income tax returns that they have complied with “notice of intent” requirements in relation to their personal superannuation contributions, effective from 1 July 2018.
- An exemption from the work test for voluntary contributions to superannuation will be introduced from 1 July 2019 for people aged 65-74 with superannuation balances below \$300,000, in the first year that they do not meet the work test requirements.
- Insurance arrangements for certain superannuation members will be changed from being a default framework to being offered on an opt-in basis.
- A 3% annual cap will be introduced on passive fees charged by superannuation funds on accounts with balances below \$6,000, and exit fees on all superannuation accounts will be banned.
- The financial institutions supervisory levies will be increased to raise additional revenue of \$31.9m over four years, from 2018/19.

Black economy measures

- A package to reform the corporations and tax laws to deter and disrupt illegal phoenix activity and the black economy will be introduced.
- The taxable payments reporting system for payments to contractors will be expanded to include security services, road freight transport and computer system design industries, effective from 1 July 2019.
- Business seeking to tender for Australian government contracts above \$4m (including GST) will need to provide a statement of compliance with their tax obligations, from 1 July 2019.
- Businesses can no longer receive cash payments above \$10,000 for goods and services, from 1 July 2019.

Individuals

Seven-year Personal Income Tax Plan to be introduced

A seven-year Personal Income Tax (PIT) Plan will be implemented in three steps, to introduce a low and middle income tax offset, to provide relief from bracket creep and to remove the 37% PIT bracket.

This measure builds on the 2016/17 Budget measure that extended the 32.5% PIT bracket from \$80,000 to \$87,000 from 1 July 2016.

Step 1: Low and middle income tax offset to be introduced

A low and middle income tax offset (LMITO) will be introduced as a non-refundable tax offset of up to \$530 pa to resident low and middle income taxpayers from 2018/19 to 2021/22.

The LMITO will provide a benefit of up to \$200 for taxpayers with taxable income of \$37,000 or less. For 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. Taxpayers with taxable incomes from \$48,000 to \$90,000 will be eligible for the maximum benefit of \$530. 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 LMITO will be received as a lump sum on assessment after an individual lodges their tax return. The benefit of the LMITO is in addition to the existing low income tax offset.

Step 2: Relief from bracket creep for middle income taxpayers

Middle income taxpayers will be provided relief for bracket creep in phases.

From 1 July 2018, the top threshold of the 32.5% PIT bracket will be increased from \$87,000 to \$90,000.

From 1 July 2022, the low income tax offset will be increased from \$445 to \$645, and the 19% PIT bracket will be increased from \$37,000 to \$41,000 to lock in the benefits of the LMITO in Step 1. The increased low income tax offset will be withdrawn at a rate of 6.5 cents per dollar for incomes between \$37,000 and \$41,000, and at a rate of 1.5 cents per dollar for incomes between \$41,000 and \$66,667.

From 1 July 2022, the top threshold of the 32.5% PIT bracket will be further increased from \$90,000 to \$120,000.

Step 3: Removing the 37% personal income tax bracket

The 37% PIT bracket will be removed from 1 July 2024.

From 1 July 2024, the top threshold of the 32.5% PIT bracket will be increased from \$120,000 to \$200,000. Taxpayers will pay the top marginal tax rate of 45% for taxable incomes exceeding \$200,000, and the 32.5% PIT bracket will apply to taxable incomes of \$41,001 to \$200,000. This is illustrated in the table below.

Rate	Thresholds in 2017/18	New thresholds in 2024/25
Nil	Up to \$18,200	Up to \$18,200
19%	\$18,201 – \$37,000	\$18,201 – \$41,000
32.5%	\$37,001 – \$87,000	\$41,001 – \$200,000
37%	\$87,001 – \$180,000	–
45%	Above \$180,000	Above \$200,000

Source: Budget Paper No 2, pp 33-34; Treasurer's media release "Tax relief for working Australians, low and middle income earners first", 8 May 2018; and Budget 2018-19 Glossy: Stronger growth to create more jobs, p 11.

Medicare levy – low income thresholds to increase

The Medicare levy low-income thresholds for singles, families, seniors and pensioners will be increased from the 2017/18 income year.

The threshold for singles will increase to \$21,980 (up from \$21,655 in 2016/17). The family threshold will increase to \$37,089 (up from \$36,541 in 2016/17). For single seniors and pensioners, the threshold will increase to \$34,758 (up from \$34,244 in 2016/17). The family threshold for seniors and pensioners will increase to \$48,385 (up from \$47,670 in 2016/17). For each dependent child or student, the family income thresholds increase by a further \$3,406 (up from \$3,356 in 2016/17).

Source: Budget Paper No 2, p 32.

Retaining the Medicare levy at 2%

The 2017/18 Federal Budget measure to increase the Medicare levy from 2% to 2.5% of taxable income from 1 July 2019 will not proceed.

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

Source: Budget Paper No 2, p 32.

Funding to ATO for compliance activities targeting individual taxpayers

The ATO will be provided with \$130.8m from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents.

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, pre-filing of income tax returns and improving real time messaging to tax agents and individual taxpayers to deter over-claiming of entitlements, such as deductions by higher risk taxpayers and their agents.

Source: Budget Paper No 2, p 31.

Income tax

R&D tax incentive changes

The calculation for entities claiming the R&D tax incentive will change commencing for income years beginning on or after 1 July 2018. Also, a maximum cash refund for “smaller” R&D claimants will be capped at \$4m per financial year. A “smaller” R&D claimant is an entity with aggregated annual turnover below \$20m.

The changes for calculating the R&D tax incentive are based around an “R&D intensity percentage” for each entity. The R&D intensity percentage is based on the amount of R&D

related expenditure as a percentage of total company expenditure. The lower the R&D intensity percentage for the entity, the lower the maximum available tax offset.

Currently there is a limit on which a company can claim the accelerated rates for the R&D tax incentive. Above this limit, the R&D tax incentive can still be claimed but only at the entity's corporate tax rate. It is proposed in the budget that the maximum eligible expenditure to get the concessional rates will rise from \$100m per entity per year to \$150m.

\$20,000 immediate asset write-off extended

Businesses with an aggregated turnover of less than \$10m will continue to have access to the \$20,000 instant asset write-off for another 12 months. A small business will get an immediate deduction for assets costing less than \$20,000, and installed and ready for use before 30 June 2019.

The current rules regarding accelerated depreciation for small businesses remain in place. Therefore, assets (including grouped assets purchased as a set) costing more than \$20,000 and installed ready for use prior to 30 June 2019 will need to be pooled at an initial rate of 15% in the first year. Also, small business depreciation pools valued under \$20,000 as at 1 July 2018 can be immediately written off in the 2018/19 income year.

The current "lock out" laws for simplified depreciation rules, which prevent small businesses from re-entering the pooling rules for five years if they opt out, will continue to be suspended until 30 June 2019.

Source: Budget Paper No 2, p 20.

Tax integrity — deductions for vacant land to be denied

From 1 July 2019, tax deductions will not be allowed for expenses associated with holding vacant land. This is an integrity measure to address concerns that deductions are being improperly claimed for expenses, such as interest costs related to holding vacant land where the land is not genuinely held for the purpose of earning assessable income. It will also reduce tax incentives for land banking, which deny the use of land for housing or other development.

The measure will apply to land held for residential or commercial purposes. However, the "carrying on a business" test will generally exclude land held for commercial development.

Deductions that are denied will not be able to be carried forward for use in later income years. Expenses for denied deductions that would ordinarily be a cost base element (such as borrowing expenses and council rates) may be included in the cost base of the asset for capital gains tax (CGT) purposes when sold. However, deductions denied for expenses that would not ordinarily be a cost base element would not be able to be included in the CGT cost base.

The measure will not apply to expenses associated with holding land that are incurred after:

- a property has been constructed on the land, it has received approval to be occupied and is available for rent, or

- the land is being used by the owner to carry on a business, including a business of primary production.

Source: Budget Paper No 2, p 42.

Non-compliant payments to employees and contractors no longer deductible

Businesses will no longer be able to claim deductions for payments to their employees where they have not met their PAYG obligations. This includes where the employer is required to withhold PAYG from gross payments, but fails to report or remit it to the ATO.

Additionally, the deduction for businesses on certain payments to contractors which have not met PAYG obligations will be removed. Currently, if a contractor does not quote an ABN in a business-to-business transaction, the purchaser is required to withhold an amount at the top marginal tax rate and remit this amount to the ATO. Failure to do this correctly will render the entire payment non-deductible.

Both of these measures will take effect from 1 July 2019.

Source: Budget Paper No 2, p 24.

Tax Integrity — 50% CGT discount removed for MITs and attribution MITs at the trust level

Managed investment trusts (MITs) and attribution MITs (AMITs) will be prevented from applying the 50% capital gains tax (CGT) discount at the trust level. This measure will apply to payments made from 1 July 2019.

The measure will prevent beneficiaries that are not entitled to the CGT discount in their own right from getting a benefit from the CGT discount being applied at the trust level. It will ensure that MITs and AMITs operate as genuine flow through tax vehicles, so that income is taxed in the hands of investors, as if they had invested directly.

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.

Source: Budget Paper No 2, p 44.

Tax Integrity — testamentary trusts and injected assets

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. The measure will clarify that minors will be taxed at adult marginal tax rates only in respect of the income a testamentary trust generates from assets of the deceased estate (or the proceeds of the disposal or investment of these assets).

Source: Budget Paper No 2, p 44.

Superannuation

Increased membership of SMSFs and small APRA funds

New and existing self-managed superannuation funds (SMSFs) and small APRA funds will be allowed to have a maximum of six members from 1 July 2019. Currently, the maximum allowable number of members in an SMSF and a small APRA fund is four.

Source: Budget Paper No 2, p 40.

Three-yearly audit cycle for some SMSFs

The annual audit requirement for self-managed superannuation funds (SMSFs) will be changed to a three-yearly requirement for SMSFs with a history of good record keeping and compliance, ie for SMSF trustees that have a history of three consecutive years of clear audit reports and timely lodgements of the fund's annual returns.

This measure will commence on 1 July 2019. The government will consult with stakeholders to ensure a smooth implementation of this measure.

Source: Budget Paper No 2, p 41.

Preventing inadvertent concessional cap breaches

Individuals whose income exceeds \$263,157, and have multiple employers, will be able to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG) from 1 July 2018. The measure is intended to ensure eligible individuals can avoid unintentionally breaching the \$25,000 annual concessional contributions cap as a result of multiple compulsory SG contributions. Breaching the cap results in individuals being liable to pay excess contributions tax and a shortfall interest charge. Employees using this measure may receive additional income which will be taxed at marginal tax rates.

Source: Budget Paper No 2, p 40.

Improving integrity of personal contributions deductions

Individual income tax returns will be modified to include a tick box for individuals with personal superannuation contributions to confirm that they have complied with the requirements to submit a “notice of intent” (NOI) where they intend to take a tax deduction for the contributions.

The change is intended to improve the integrity of the NOI processes for claiming personal superannuation contribution tax deductions. Where individuals take deductions for their personal superannuation contributions, but do not submit the required “notice of intent”, it results in superannuation funds not applying the 15% tax to their contribution and no tax is paid on it.

The ATO will receive additional funding to develop a new compliance model, and to undertake additional compliance and debt collection activities, including denying deductions to individuals who do not comply with the NOI requirements.

This measure will commence from 1 July 2018.

Source: Budget Paper No 2, p 39.

Super work test exemption for recent retirees

An exemption from the work test for voluntary contributions to superannuation will be introduced from 1 July 2019 for people aged 65-74 with superannuation balances below \$300,000, in the first year that they do not meet the work test requirements.

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

Source: Budget Paper No 2, p 30.

Black economy measures

Reforms to combat illegal phoenixing and black economy

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:

- 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
- restrict the ability of related creditors to vote on the appointment, removal or replacement of an external administrator
- extend the Director Penalty Regime to GST, luxury car tax and wine equalisation tax, making directors personally liable for the company's debts, and

- expand the ATO's power to retain refunds where there are outstanding tax lodgements.

Additional funding to the ATO will also be provided over four years to implement new strategies to combat the black economy. The ATO will implement a new and enhanced enforcement strategy that brings together new mobile strike teams and an increased audit presence, a Black Economy Hotline that will allow for the community to report black economy and illegal phoenix activities, improved government data analytics, and educational activities.

The government will also consult on and design a new regulatory framework for the Australian Business Number (ABN) system in 2018/19. This measure implements a recommendation of the *Black Economy Taskforce — Final Report* that the ABN system be strengthened to provide improved confidence in the identity and legitimacy of Australian businesses.

Source: Budget Paper No 2, p 37 and Minister for Revenue and Financial Services' media release, "Tackling Illegal Behaviour in the Black Economy", 8 May 2018.

Cash receipt limit for businesses to be introduced

Large undocumented cash payments can be used to avoid tax or to launder money from criminal activity. The government will introduce a Black Economy Taskforce recommendation to limit a cash receipt for a business to under \$10,000, from 1 July 2019.

Transactions with financial institutions or consumer to consumer non-business transactions will not be affected.

The Black Economy Taskforce measures include additional funding for the Department of Treasury to enable stakeholder consultation to help with details on the measure. Also, the ATO will receive enhanced funding that will help with enforcement of these proposed measures.

Source: Budget Paper No 2, p 23.

Indirect taxes

Larger refunds and lower rates of excise on alcohol

The alcohol excise refund scheme will be increased from \$30,000 per financial year to \$100,000 commencing 1 July 2019. The refund will increase for domestic brewers, distillers and producers of draught beer and other fermented beverages such as cider.

Domestic brewers of beer will also receive additional relief in the form of a lower excise rate for smaller kegs. Currently, a lower rate of excise is available for draught beer kegs that are larger than 48 litres. The threshold for this concessional rate will be lowered to kegs which are 8 litres and above.

Source: Budget Paper No 2, p 19.
