

Post-2019 Federal Election— Forward tax agenda

30 May 2019

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In brief

Following the Federal election on Saturday 18 May 2019, the Coalition has been returned to Government. In the absence of contrary information, we expect the Government will continue to implement its previously announced tax and superannuation policies, many of which were announced in the 2019-20 Federal Budget. This alert supplements our [2019-20 Federal Budget insights](#) with an update to the forward tax agenda.

In detail

Since the Coalition did not announce any new tax or superannuation policies during the election campaign, its post-election reform agenda effectively is that put forward in the 2019-20 Federal Budget on 2 April 2019.

The centrepiece of the Budget was the proposed personal income tax cuts which will no doubt be the Government's key legislative priority once the new Parliament resumes. To recap, the proposed income tax cuts which build on last year's already legislated Budget measure will:

- increase from 1 July 2018 until 30 June 2022, the Low and Middle Income Tax Offset (LMITO) up to a maximum of AUD 1080
- increase the top threshold of the 19 per cent personal income tax bracket and the Low Income Tax Offset (LITO) from 1 July 2022, and
- reduce the 32.5 per cent marginal tax rate to 30 per cent from 1 July 2024.

Legislation has already been enacted to give effect to this year's Federal Budget proposal to extend the instant asset write-off. This means that businesses with aggregated annual turnover of up to AUD 50 million can already benefit from the increased AUD 30,000 instant asset write-off for depreciable assets purchased and first used, or installed ready for use, from 7:30pm (AEDT) on 2 April 2019 to 30 June 2020.

Other measures that were announced in the Federal Budget are yet to be legislated. Refer to [our 2019-20 Federal Budget insights](#).

The fate of all other announced and unenacted measures is to be formally confirmed by the Government. However in the absence of a statement to the contrary, there is no reason to expect that those measures will not continue to be implemented.

It is worth noting that all announced measures that were before Parliament in a Bill at the time the election was called have lapsed. When Parliament resumes, if the Government wishes to proceed with the measures contained in the lapsed Bills, it may decide to:

- introduce new legislation
- reintroduce the "old" Bills into the House of Representatives, or
- it may "revive" the Bill by moving that it is reinstated to the position it was (ie, either in the Senate or House) before the election was called.

We update below the table from our forward tax agenda prepared as part of our [2019-20 Federal Budget insights](#) to include the key outstanding proposals, including those measures which were included in Bills which lapsed and also those proposed by the Federal Budget.

Key measure previously announced still to be legislated

Measure	Status
Global tax	
Thin capitalisation changes including removal of ability to revalue assets off balance sheet and treat foreign controlled Australian tax consolidated and multiple entry consolidated groups with foreign investments or operations as both outward and inward investing entities	<p>The measure relating to revaluation of assets is proposed to apply from 8 May 2018, subject to transitional rules applicable until income years that commence on or after 1 July 2019.</p> <p>The change to the treatment of consolidated groups is proposed to apply to income years commencing on or after 1 July 2019.</p> <p>These measures, which were before Parliament at the time of the election, lapsed with the proroguing of Parliament</p>
Broaden the definition of significant global entity (SGE)	<p>The concept of SGE is relevant for a range of tax laws including Country-by-Country reporting, Multinational Anti-Avoidance Law, Diverted Profits Tax, and penalties.</p> <p>The new definitions will apply to income years commencing on or after 1 July 2018.</p> <p>This measure, which was before Parliament at the time of the election, lapsed with the proroguing of Parliament</p>
Refine the hybrid mismatch rules (announced in the 2019-20 Federal Budget)	Proposed to apply to income years commencing on or after 1 January 2019
Update the list of information exchange countries to add Curacao, Lebanon, Nauru, Pakistan, Panama, Peru, Qatar and United Arab Emirates (announced in 2019-20 Federal Budget)	Effective from 1 January 2020
Double tax agreement (DTA) between	This DTA was signed on 28 March 2019. If the DTA

Australia and Israel to be given the force of law	enters into force during the 2019 calendar year, the withholding tax rules will apply from 1 January 2020, while in respect of other Australian tax in relation to income, profits or gain, it will apply to any year of income beginning on or after 1 July 2020
Refinements to the <i>International Tax Agreements Act 1953</i> to provide that certain income covered by a tax treaty is deemed to have an Australian source (announced in 2019-20 Federal Budget)	No start date indicated
Offshore Banking Unit (OBU) reforms	Announced in October 2018 to address concerns raised by the OECD Forum on Harmful Tax Practices. No start date indicated
Corporate tax	
Reform the integrity provisions in the debt/equity rules	Draft legislation to implement the Board of Taxation's recommended approach to improve the debt and equity tax rules was released in October 2016. The new rules are proposed to apply in relation to transactions entered into after the commencement of the law, which will be a day to be fixed by proclamation (or if there is no proclamation, six months after Royal Assent of amending legislation)
Better targeting the research and development (R&D) tax incentive	These measures, which were before Parliament at the time of the election, lapsed with the proroguing of Parliament. The Senate Economics Legislation Committee, which handed down its report on the Bill in February 2019, recommended further examination and analysis of the impact of the R&D reforms be undertaken
Remove barriers to the use of asset backed financing	Proposed to apply with effect from 1 July 2018
Prevent franked distributions funded by capital raisings	Proposed to apply to distributions made after 12:00pm (AEDT) on 19 December 2016
Reforms to taxation of financial arrangements (TOFA)	Proposed to apply to income years that begin after Royal Assent of amending legislation
Asset and wealth management	
Remove the capital gains tax (CGT) discount at trust level for Managed Investment Trusts and Attribution Managed Investment Trusts	Proposed to apply from 1 July 2020
Corporate and limited partnership collective investment vehicles (CIV)	Draft legislation dealing with the tax and regulatory framework for corporate CIVs has been released for public consultation.

	No draft legislation has been made available for the proposed limited partnership CIV.
Private business	
Reforms to Division 7A (private company deemed dividend rules)	Announced in the 2019-20 Federal Budget that the start date of these reforms will be deferred to income years commencing on or after 1 July 2020
Personal tax and superannuation	
<p>Personal tax cuts (announced in the 2019-20 Federal Budget) including:</p> <ul style="list-style-type: none"> from 1 July 2018 until 30 June 2022, a significant increase in the LMITO from 1 July 2022, an increase in both the top threshold of the 19 per cent personal income tax bracket and an increase to the LITO, and from 1 July 2024, a reduction in the 32.5 per cent marginal tax rate to 30 per cent 	Various start date with the first phase applicable from 1 July 2018
Taxation of income for use of an individual's fame and image	A consultation paper was released in December 2019. This measure is proposed to apply from 1 July 2019
Remove CGT main residence exemption for foreign residents	<p>Proposed to apply from 7:30pm by legal in the ACT on 9 May 2017, with a transitional period until 30 June 2019 for dwellings held before 9 May 2017.</p> <p>This measure, which was before Parliament at the time of the election, lapsed with the proroguing of Parliament</p>
Superannuation guarantee (SG) 12-month amnesty for historical underpayment of SG and increase in penalties for those that do not come forward during the amnesty	Proposed to apply from 24 May 2018, but the measures, which were before Parliament at the time of the election, lapsed with the proroguing of Parliament
Permanent tax relief for merging superannuation funds (announced in the 2019-20 Federal Budget)	Proposed to apply from 1 July 2020
Remove work test requirement for individuals aged 65 and 66 years (announced in the 2019-20 Federal Budget)	Proposed to apply from 1 July 2020
Extend bring-forward arrangements which currently apply to individuals aged less than 65 years to those aged 65 and 66 years (announced in the 2019-20 Federal Budget)	Proposed to apply from 1 July 2020
Increase the age limit for spouse contributions from 69 to 74 years (announced in the 2019-	Proposed to apply from 1 July 2020

20 Federal Budget)	
Insurance within superannuation to be offered on an opt-in basis for individual accounts with balances of less than AUD6,000 and new accounts belonging to a member who is under the age of 25 years (announced in the 2019-20 Federal Budget)	Proposed to apply from 1 October 2019
Streamlining requirements for calculation of exempt current pension income (announced in the 2019-20 Federal Budget)	Effective from 1 July 2020
Other measures	
Goods and services tax (GST) for online bookings for accommodation in Australia	Proposed to apply from 1 July 2019. This measure, which was before Parliament at the time of the election, lapsed with the proroguing of Parliament
Measures to deal with the black economy including implementing a reporting regime for the sharing economy and as announced in the 2019-20 Federal Budget, target the misuse of the Australian Business Number (ABN) system	Consultation on recommendations for a sharing economy reporting regime and also to modernise offences, penalties and streamline prosecution processes undertaken, but no start date indicated. ABN reforms proposed to commence from as early as 1 July 2021
Denial of deductions for vacant land	Draft legislation to implement this measure was released in October 2018. The measure is proposed to have effect from 1 July 2019
Improving the transparency of tax debts by authorising the Australian Taxation Office (ATO) to disclose certain business tax debts to credit reporting bureaus	In January 2018, the Government released draft legislation for this proposal. Further changes to this measure were announced in the 2018-19 MYEFO, including raising the threshold for reporting to AUD100,000. This measure is proposed to take effect the day after Royal Assent of the enabling legislation
Increase luxury car tax refund up to a maximum of AUD10,000 for eligible primary producers and tourism operators (announced in the 2019-20 Federal Budget)	Proposed to apply to vehicles acquired on or after 1 July 2019

The takeaway

Taxpayers and advisers alike will be following with interest the status of the outstanding measures that were originally announced to apply from 1 July 2019 or earlier. For example, the future of the originally proposed SG amnesty will be particularly relevant as will the fate of the somewhat controversial removal of the CGT main residence exemption for foreign residents. Furthermore, many private business groups

are also eagerly awaiting further details of the proposed reforms to the Division 7A deemed dividend rules.

As noted earlier, a key legislative priority for the Government will be its planned personal tax reductions, particularly since they have effect from as early as the current 2018-19 income year. Regardless of when Parliament commence sittings, if the Government can secure passage of its personal tax cut plans through both Houses of Parliament, the tax relief which is planned to apply to the 2019 income year will still be delivered (even if this may mean that the Australian Taxation Office has to issue amended assessments to affected individuals).

It is unclear at this stage whether or not Parliament will be able to sit before 30 June 2019 as the post-election formalities need to firstly conclude. Also note that the newly comprised Senate will only take effect from 1 July 2019.

Time will tell when the new Parliament will resume sitting and determine its legislative agenda for the remainder of the calendar year.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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