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The Bottom Line

Coalition's tax policies: How do these impact on businesses?

The Federal Election has come and gone. The Coalition has won and will be the next Federal Government.

The Coalition will have a majority of seats in the House of Representatives in their own right but not the Senate. This may make the passing of their tax and other proposals into law difficult.

Here we focus on the Coalition's tax proposals highlighting the impact they may have on small and medium businesses and their owners.

Uncertainty around the Coalition's tax policies and proposals

Many of the Coalition's proposals were outlined in the Federal Budget on 2 April. Some proposals have already been passed into law – an example is the immediate tax write-off of the cost of buying plant and machinery.

Others like the tax offset for low-and middle-income earners that will only become available on the filing of the 2019 tax return, have not. It is highly unlikely that the Prime Minister will be able to call Parliament and pass the necessary law before 30 June.

In a perfect world, it is desirable that tax legislation should have a prospective start date to provide certainty, and time for the proposal to be properly considered. Unfortunately, this is not always the case.
If you believe that any of the proposals outlined here may apply to you or your business, please consult your tax adviser. ■

Tax breaks available to both small and medium businesses for the 2019 tax return

Instant asset write-off

Businesses can claim an immediate tax write-off and reduce their tax payable when buying new business assets, but cost caps apply.

Tip! Always discuss with your adviser whenever considering buying assets or businesses. The way these assets are described, documented and the timing of purchase are important and may impact the claiming of the immediate tax write-off. ■

Small businesses with a turnover of less than $10 million

If you are a small business with total turnover of less than $10 million, the instant asset write-off is available to you for all new or second-hand machinery, plant, cars and equipment (eg tools, display cabinets, freezers, delivery vehicles).

Cost caps apply depending on when the asset is first used or installed and ready for use.

If the time of first use or installation ready for use is between:

- 1 July 2018 – 28 January 2019: assets must cost less than $20,000
- 29 January 2019 – 2 April 2019: assets must cost less than $25,000
- 3 April 2019 – 30 June 2020: assets must cost less than $30,000.

There is no limit to the number of assets that can be claimed.

For businesses claiming GST, the tax write-off cost excludes GST.

For businesses not claiming GST, the tax write-off cost includes GST.

Note! *Registering for GST is optional if total sales are less than $75,000.*

This tax break currently ends on 30 June 2020. There is an expectation that the Government may extend this provision.

What about assets that are more than $30,000?

For assets costing more than $30,000 or the cost caps of $20,000 or $25,000, for the relevant periods, businesses can use the simplified tax depreciation pooling provisions and depreciate those assets at 15% in the first year and 30% each year thereafter.

If on 30 June 2019 the simplified tax depreciation pool balance is less than $30,000, then this amount can be immediately written off for tax purposes.

Case study: How the instant asset write-off works

Here is a case study of how the instant asset-write-off works:

Early Bird Café is a business registered for GST with a turnover of $5m.

- On 12 December 2018, Early Bird Café paid $16,500 (and was entitled to a GST credit of $1,500) for a counter top for the new café extension which opened for business after all construction was completed on 17 January.

  An immediate tax write-off of $15,000, as the counter was first used before 28 January.

- On 27 January 2019, Early Bird Café took delivery of a walk-in refrigerator, but it was not installed and ready for use until 6 February 2019. Payment of $25,300 including GST was made on 27 April 2019.

  An immediate tax write-off of $23,000 as the walk-in refrigerator was installed and ready for use before 2 April 2019. Delivery and payment dates are not taken into account. The write-off is the GST exclusive value. The GST of $2,300 is claimable in the BAS return.

  If the café business was not registered for GST (total sales being below $75,000) there would be no immediate tax write-off because the cost to the business is $25,300 and is more than the cost cap of $25,000.

- On 30 June 2019, the balance in the simplified tax depreciation pool was $28,500.

  An immediate tax write-off of $28,500 as the balance in the simplified tax depreciation pool is less than the cost cap of $30,000.

- On 20 July 2019, Early Bird Café took delivery of a van costing $44,000 including GST funded by a bank loan.

  No immediate tax write-off as the cost of $40,000 is more than the cost cap of $30,000. Annual depreciation rules will apply to the $40,000 cost of the van. GST of $4,000 is claimable in the BAS return. ■

What other measures are available to small businesses?

Easier for businesses to use their losses

A new similar business test has been introduced, making it easier for a loss business to transfer its losses to a profit business where the businesses are similar.

The similar business test now means same assets, same activities, same identity with differences only coming from natural growth.

New GST withholding obligations on the purchase of new residential premises

From 1 July 2018, purchasers of new residential premises must pay vendors a GST exclusive amount and send the GST direct to the ATO.

No tax deductibility of employer payments to employees if PAYG obligations not met

From 1 July 2019, an employer will be allowed a tax deduction for payments to an employee only when the PAYG withholding obligations have been met. These are: the withholding of the tax when the employee is paid and the reporting of that amount to the ATO.

Cheaper, quicker and less intimidating resolution of ATO disputes

For small businesses, a new process has been introduced making the resolution of ATO disputes arising from minor technical matters identified in the tax return or an audit, cheaper, quicker and less intimidating.

Applications will be considered by a small business division of the Administrative Appeals Tribunal to commence from 1 July 2019 and be generally conducted without lawyers.

If for any reason, the ATO engages external lawyers, they will be obliged to pay the business' cost of equivalent support. Decisions need to be given within 28 days of the hearing.

Tip! Your adviser will be able to advise if in your circumstance this approach is in the best interest of your business or yourself. ■

Medium businesses with a turnover of more than $10 million but less than $50 million

If you are a medium business with total turnover of more than $10 million but less than $50 million, you can claim an immediate tax write-off for assets costing less than $30,000 if they were purchased after 2 April 2019 and first used or installed and ready for use by 30 June 2020.

These businesses are not able to claim the immediate tax write-off for purchases before 2 April, as the immediate tax write-off provision did not apply to them before that date.

For assets costing more than $30,000, the annual depreciation rules will apply. There is also no immediate tax write-off for depreciation account balances below $30,000. ■

Tax breaks that may be available for the 2019 tax return: Law not yet passed

Prior to the Election, the Coalition Government had proposed various tax measures. These have yet to be passed into law. We are not sure which will be passed into law or when. If they are of interest discuss this with your adviser.

Still waiting for personal tax cuts…

Not yet law:

- The tax offset that reduces the tax payable for low and middle- income earners. This becomes available when the 2019 tax return is filed with the ATO.
- The marginal tax rate change for the 1 July 2019 – 30 June 2020 tax year. This will reduce the tax payable from 1 July 2019.

The new Coalition Government wants these and the proposed changes so that will result in a flatter tax rate structure by 2025, passed into law as quickly as possible. Labor has said it will support the 2019 and 2020 tax year changes but not those resulting in the flatter tax rate by 2025. We will wait and see.

Small tax discount rate to increase from 1 July 2020

For unincorporated businesses, the current small tax discount rate of 8% would increase to 13% for 1 July 2020 to 30 June 2021 and become 16% after 1 July 2021.

For companies with a turnover under $50m, a cut in corporate tax rate from 1 July 2021

It is proposed for companies with a total turnover of less than $50m that from 1 July 2021, the current company tax rate of 27.5% would be decreased to 25%.

Available now cash payments for training and new apprenticeships in some trades

A cash incentive payment of $8,000 per placement is available to those businesses offering apprenticeships in the following trades: carpenters and joiners; bricklayers and stonemasons; plasterers; wall and floor tilers; plumbers; vehicle painters; hairdressers; air-conditioning and refrigeration mechanics; arborists.

The employers will be given $3,500 after 12 months and $4,500 at the end of the apprenticeship.

The new apprentices receive $1,000 after 12 months and $1,000 on completion.

Selling overseas: Export market development grants

If your business operates as a self-employed, partnership, company or trust and has undertaken export promotion activities during the year, it may qualify for the Export Development Grant.

Specific rules exist as to the countries and categories of promotional expenditure that the Grant applies to. A detailed application process exists.

In general, a business must:

- have total sales of less than $50m
- have incurred at least $15,000 of promotional expenditure on (indicative only):
    - overseas representatives
    - overseas marketing visits
    - buyer visits
    - providing free samples
- be selling or promoting overseas:
    - export of goods, know-how and most services
    - inbound tourism and conferences

- be developing export markets in countries other than:
  - North Korea
  - Iran
  - New Zealand

The cash benefit is a reimbursement of up to 50% of the promotional expenditure over a must-spend base of $15,000. The minimum grant is $5,000 and the maximum $150,000.

Tip! If either of these incentives are of interest or applies to you or your business, consult with your adviser. The paperwork required to set these up may require their assistance. ■

Labor tax policies that are not going forward

With Labor losing the Election, the tax policies it planned to introduce will no longer go ahead. These policies are:

- Additional 30% deduction for wages paid to new workers under the age of 25 and over 55 who had previously been unemployed and carers returning to work.
- From 1 July 2021, an immediate 20% tax write-off of the cost of new eligible asset purchases. Usual depreciation would continue to apply in the first and subsequent years. No cost caps applied.
- CGT discount of 25% not 50% on the sale of passive investments held for over 12 months.
- A minimum tax of 30% on discretionary trust distributions to beneficiaries over the age of 18.
- Negative gearing – restricting deductions for interest on loans to purchase new passive investments.
- Franking credit – denying cash refunds.
- Limiting to $3,000 the deduction for the cost of tax affairs management.
- Various superannuation changes. ■

The ATO is watching…

The new Government can be expected to continue funding the ATO to put in place mechanisms that will improve the integrity of the tax system and chase down those that want to operate outside it or who are understating income or overstating expenses.

The ATO is actively monitoring businesses by using up-to-date third-party information and risk analysis to find businesses who might not be correctly meeting their tax obligations.

How this may work is best shown in the below case study.

Case study

A hairdresser paid cash to a decorator to refurbish three salons.

The decorator buys paint and furnishings from a local supplier paying in cash and asks for them to be delivered to the salons.

As part of its normal data collecting, the ATO asks the supplier for a schedule of names and addresses of recent sales. The ATO are unable to find the decorator in their system. No tax return has been filed for the last 10 years. By visiting the delivery address the ATO identifies the decorator and commences an extensive investigation.

The ATO then focuses on the hairdresser. They are not able to see in the accounts the payment to the decorator. The ATO complete a living expense analysis and conclude that the amounts required by the hairdresser for day to day living is not supported by the income declared on the tax return. Not all hairdressing income has been included.

Tip! Living expenditure worksheets that allow business owners to undertake in-depth analysis of their household annual incomings and outgoings to show that the income declared on the tax return supports their actual life style are available. If you are interested in completing such worksheets, discuss this with your tax adviser. ■

Jail time for labour hire operator

On 15 May, the County Court of Victoria sentenced a director of a labour hire company to six months jail for failing to pay to the ATO more than $664,000 in PAYGW from 49 employees; filing 136 false tax returns with refunds of $187,994 for workers (many who had left Australia) and the non-filing of Business Activity Statements (BAS). Monetary penalties were also imposed.

This case shows the extent that information and data analysis are available and used by the ATO to identify those outside the tax system or who understate income or overstate expenses.

Jail time and substantial penalties may result. If you have concerns that your business has made a mistake or left something out, you should discuss this immediately with your adviser. ■

Key tax dates

Date	Obligation
21 Jun 2019	May monthly BAS due
25 Jun 2019	Lodge 2019 FBT annual return for agents if lodging electronically
30 June 2019	Super guarantee contributions must be paid by this date to qualify for a tax deduction in the 2018-19 financial year
15 Jul 2019	Issue PAYG withholding payment summaries
22 Jul 2019	June monthly BAS due
29 Jul 2019	- June quarter SG due - June quarter BAS due June quarter PAYG instalment due
1 Aug 2019	August fuel tax credit rates change
14 Aug 2019	PAYG withholding annual report due
21 Aug 2019	July monthly BAS due
28 Aug 2019	- Taxable payments annual report due June quarter SG charge statement due

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