Budget 2021 – Revenue

Business & corporate taxation overview

The business tax measures in the current budget are in two categories:

- Extended full expensing provisions and loss carry-back measures will support business in the economic recovery; and
- It is expected that the new patent box and digital economy measures will encourage innovation and research in Australia.

We welcome the extension of the loss carry-back measures, but note that it will not help the many self-employed workers in the entertainment and tourism sectors who do not operate through a corporate entity.

The asset write-offs, digital economy and patent box measures will be most useful to male dominated sectors of the economy – the examples drawn on in the Treasurer's own media release makes that clear.

Business and Corporate Taxation

The Budget

The two headline measures in respect of corporate taxation are intended to assist businesses with a turnover of less than $5 bn. Note that the corporate tax rate for companies with a turnover of less than $50 million will also reduce from 27.5 per cent to 25 per cent from 1 July 2021, under the small business tax plan legislated in 2018.

Temporary full expensing extension

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-	-600.0	-10,900.0	-6,400.0

(Budget Paper No 2, p. 29, 2021-22)

This is an extension of the measure that was announced in the 2020-21 Budget. The expectations at that date were that it would decrease receipts by $26.7 bn over four years, and $3.2 bn over the medium term:

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24
Australian Taxation Office	-1,500.0	-11,400.0	-18,100.0	4,300.0

(Budget Paper No 2, p. 20, 2020-21)

The Government will extend the 2020-21 Budget measure titled *JobMaker Plan — temporary full expensing to support investment and jobs* for 12 months until 30 June 2023 to further support business investment and the creation of more jobs.

Temporary full expensing allows eligible businesses with annual turnover or total income of less than $5 billion to deduct the full cost of eligible depreciable assets of any value acquired after 6 October 2020 and installed or used by 30 June 2023. The 12-month extension will provide eligible businesses with additional time to access the incentive, including projects that have a longer lead up time, and ensuring that the required components are available. From 1 July 2023, normal depreciation arrangements will apply.

Bringing forward the deduction for assets is a timing measure: the cost of plant that would normally be claimed over a number of years can be claimed in total in the first year. Therefore the overall effect on revenue receipts in the long term will be minimal. In the years following the end of this measure Treasury would expect that tax collections will increase as claims for annual depreciation are reduced.

In our analysis of the measure when introduced in the 2020-2 Budget we noted that a substantial proportion of the acquired assets was likely to come through imports. ABS Statistics show that in the December 2020 quarter, coinciding with the budget announcement, the level of spending on capital assets by businesses that are not in the mining sector increased. The ABS also shows that the seasonally adjusted value of imported goods increased between September 2020 and March 2021 to be at the highest level since 2017.

Temporary loss carry-back extension

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-	-	-3,200.0	410.0

(Budget Paper No 2, p. 30, 2021-22)

The Government is extending the 2020-21 Budget measure titled *JobMaker Plan — temporary loss carry-back to support cash flow*.

The amount estimated in last year's budget papers was:

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24
Australian Taxation Office	-	-3,120.0	-2,270.0	540.0
Related payments ($m)				
Australian Taxation Office	*1.9*	*1.2*	*1.0*	*0.4*

(Budget Paper No 2, p. 21, 2020-21)

Comparing the two years, the effect is that the recovery of the outlay will be deferred to the 2024-25 year instead of the 2023-24 year.

Loss carry-back allows a company to amend income tax returns lodged in previous years to claim losses incurred during those years affected by COVID, ie the financial years ended 30 June 2021 and 2022. It is limited to companies with a turnover of less than $5 bn, and access is limited based on the balance in a company's franking account, and the company not creating a loss in the year that it is applying the loss against.

This measure is estimated to decrease receipts by $2.8 billion over the forward estimates period, with a net cost of $1.9 billion over the medium term. The impact on receipts is reduced over the medium term as in the normal event businesses would be able to claim the losses in the years following the loss.

Digital Economy Strategy and Patent Box

The Government has announced a number of tax initiatives to encourage investment in technology in Australia. The first is the Patent Box, and the second is the Digital Economy Strategy.

Patent Box — tax concession for Australian medical and biotechnology innovations

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-	-	-100.0	-100.0
Related payments ($m)					
Australian Taxation Office	-	*1.3*	*2.7*	*1.2*	*1.2*

(Budget Paper No 2, p. 23, 2021-22)

The patent box strategy will apply a lower corporate tax rate of 17 per cent to income derived from Australian owned and developed patents in the medical and bio-technology fields; and potentially in relation to climate change research. The measure is expected to generate jobs through research and development in Australia.

We have a history of using the tax system to support research and development in key areas, currently through a tax offset for relevant expenditure.

The patent box regime is in accordance with systems applied in up to 20 other countries, although the rates vary. Evidence shows that they have a limited success rate in supporting local jobs. Patents may be filed in the country with the tax concession, but much of the actual research is still be done offshore. (Gross, 2021; Office of the Chief Economist, 2015) In this case the budget measure refers to the requirement that the patent be developed in Australia. The details will be designed after consultation with industry: we need to ensure that the central principle of Australian benefit is not watered down in the final design.

Digital Economy Strategy – Digital Games Tax Offset

$18.8 million will be allocated over four years from 2021-22 for a Digital Games Tax Offset to provide a 30 per cent refundable tax offset for qualifying Australian digital games expenditure ongoing from 1 July 2022, with the criteria and definition of qualifying expenditure to be determined through industry consultation (Budget Paper No 2, p.73, 2021-22).

There is little detail on this measure, which is contained within a whole of government strategy. The refundable tax offset allows a reduction in tax that can be claimed as a refund where there is no tax payable. The rate of 30 per cent is the large corporate tax rate, and the middle personal tax rate after the scheduled stage 3 personal tax cuts have commenced.

Digital Economy Strategy — self-assessing the effective life of intangible depreciating assets

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-	-	-20.0	-150.0

(Budget Paper No 2, p. 14, 2021-22)

Currently the taxation law provides that the cost of intangible assets such as software developed in-house and patents, must be allocated over a defined statutory period. This may not align with the period that the asset is used to generate income, particularly in areas where technology changes rapidly. This measure will allow taxpayers to self-assess the tax effective lives of eligible intangible depreciating assets, such as patents, registered designs, copyrights and in- house software. It will be available after the temporary expensing measure has expired in 2023-24.

As noted in respect of the temporary expensing measure, this measure is a timing measure. The expenditure will not change, but the timing of the deduction will better match the usefulness of the asset.

Aligning the excise refund scheme for brewers and distillers with the producer rebate for wine producers

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-55.0	-55.0	-55.0	-60.0

(Budget Paper No 2, p. 12, 2021-22)

Currently small brewers and distillers are eligible for a 60 per cent rebate on excise up to a cap of $100,000 in each financial year. This cap will be increased to $350,000 and will be comparable to the Wine Equalisation Tax rebate available to winemakers.

Small brewers and distillers will be treated on a par with the wine industry. There should be a flow though to consumers as prices are adjusted to reflect the increased rebate; but the extent of any reduction in price will vary between different producers based on their business model. It will remove the different treatment between different sectors of the industry.

Integrity Measures:

International Tax — removing the preferential tax treatment for Offshore Banking Units

Receipts ($m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office	-	-	-30.0	-70.0	-60.0

(Budget Paper No 2, p. 12, 2021-22)

Currently certain Offshore Banking Units are eligible for the concessional tax rate of 10 per cent if they meet certain criteria. This concession will be removed with effect from 2022-23. This will not have a major effect on tax collections, but it does address international concerns over the concessional tax rate. Currently the international community is moving to removing preferential tax treatment that might encourage entities to move their enterprise offshore.

International Tax — updating the list of exchange of information countries

There will also be updates to the list of jurisdictions that have an effective information sharing agreement with Australia. Information sharing agreements are an important element of the global effort to limit tax evasion where a person routes transactions through other countries where information is less accessible. The updated list will be effective from 1 January 2022. The revenue cost of this measure is negligible. (Budget Paper No 2, p.21, 2021-22)

Not-for-profits — enhancing the transparency of income tax exemptions

In 2022-23 the ATO will receive capital funding of $1.9 m to build an online system that will verify that NFPs that are not charities, but are exempt from income tax will be required to report specified information to the ATO, in order to allow their activities to be verified. Charities are already required to lodge annual reports with the Australian Charities and Not-for-profit Commission. (Budget Paper No 2, p.22, 2021-22)

Gender implications

Why is this an issue for women?

The impact on women is in multiple areas: as employees who have an interest in ensuring that their employer remains viable; as business owners; and as investors.

The data show that at the last census women made up about 33 per cent per cent of business owners in Australia, and that these businesses are primarily in the services sector (PMC, 2015 figure 2.7), whether as an employee or a business operator. Tax measures that favour the services sector are more likely to assist women.

What are the 2021 Budget impacts on women?

The two main themes of the business tax package are to provide tax incentives to help businesses to keep operating and maintain employment; and to increase employment in the technology and digital industries.

The loss carry-back measure will be helpful to employers in those sectors that have been hard hit by COVID, specifically entertainment; accommodation and tourism, and we support the extension. However the employer must meet the required criteria of being a company and have a turnover below the $5 bn threshold. This will not assist the many microbusinesses where a woman is essentially self-employed, for example in the entertainment or tourism sector.

When assessing the gender impact of the other corporate tax changes, they are likely to provide more benefits to men than to women.

ABS data show that women are underrepresented in the sectors likely to benefit from accelerated expenditure on plant and equipment. Using the three examples in the Treasurer's media campaign as an example:

- A concrete tank for a builder: 12.7 per cent of people employed in construction are female;
- A tractor for a farming business: 33.3 per cent of people employed in agriculture, forestry and farming are female;
- A truck for a delivery business: 20.2 per cent of people employed in transport, postal and warehousing are female.

Women are also underrepresented in employment that will benefit from the digital strategy. They make up 27.5 per cent of professional, scientific and technical services, and the challenges around attracting women to STEM are well known. Only twenty one percent of employees in the digital games sector identify as female.

In our analysis of the 2020-21 Budget we highlighted our concern that the increased investment in capital assets would be substantially from imports, and the data shows that our concern was warranted.

Recommendations

- The asset full expensing measure should be better targeted by reducing the $5 bn income limit for eligibility and capping the value of the assets eligible for the measure.
- The asset full expensing measure should not apply to imported assets over a specified value unless a specific case can be made for the job creation capacity of that asset.
- The digital and patent box measures should be linked to evidence that the gender imbalance and the gender pay gap in the industry are being addressed; and there must be a clear linkage to industry schemes developed under the STEM initiative in the Women's Economic Security Package.
- The patent box measures must be designed to ensure that industry cannot subvert them through substantially developing the technology offshore.