Australia: 2021-22 Federal Budget insights

12 May 2021

In brief

Treasurer Josh Frydenberg handed down the 2021-22 Australian Federal Budget on Tuesday 11 May 2021.

A key focus of this year's Budget is to attract and retain the 'best and brightest' talent in Australia, encourage workforce participation, reduce compliance costs, build confidence and certainty in the tax system. It is no surprise that tax measures play a key role in delivering this agenda.

A number of measures announced are relevant to global employers and their mobile employees.

The detailed analysis of all the tax measures are available through PwC Australia's dedicated Federal Budget Tax Insights website.

In detail

Modernisation of Australia's individual tax residency rules

As part of the Government's plan to attract global business and talent, and reduce the costs of compliance, the Government has announced that it will replace and modernise the tax rules for determining individual tax residency.

The new framework would be based on the recommendations of the Board of Taxation that would include a new primary 'bright line' test. Any individual spending 183 days or more in Australia in any tax year (i.e. between 1 July and 30 June) would be considered an Australian tax resident.

Individuals who do not meet the primary test may still be considered an Australian tax resident under a number of secondary tests. These secondary tests would set out objective criteria, e.g. whether an individual has the right to reside permanently in Australia, whether they have Australian accommodation, family located in Australia or Australian economic connections.

The new individual tax residency rules would apply from 1 July following the enactment of the enabling legislation which is not yet available. If legislation is enacted before 30 June 2022, the new Australian individual tax residency rules will apply from the 2022-23 tax year. It is also worth noting that the Board of Taxation recognised that a period of transition should be considered during the implementation process.

Relaxation of the residency requirements for Self-Managed Superannuation Funds (SMSFs) and small APRA-regulated funds

Australian individuals who cease to be tax residents of Australia currently face additional complexities if they are members of a SMSF. The current rules, if not properly managed, can result in the SMSF being deemed to be a non-resident fund and the assets being taxed at 47%.

The Government has decided to relax these residency requirements for both SMSFs and small APRA-Regulated Funds (SAFs) by extending the central control and management test safe harbour from two to five years for SMSFs and removing the active member test for both SMSFs and SAFs. By removing the active member test, this would allow members in these funds to continue to contribute to their superannuation fund whilst temporarily overseas. This provides them with the flexibility to maintain these types of funds whilst overseas and provides parity with members of large APRA-regulated funds.

Changes to the Employee Share Scheme (ESS) rules

The 2021-22 Budget announces a number of changes to the existing employee share scheme (ESS) rules and regulatory requirements which are intended to remove unnecessary impediments and compliance burdens.

Specifically, the Government has announced the removal of cessation of employment as a taxing point. Tax will no longer be payable on tax deferred ESS interests when an employee leaves the business.

This measure would apply to ESS interests issued on or after 1 July following the enactment of legislation.

More deductions allowed for self-education expenses

Individual taxpayers are entitled to claim a tax deduction for self-education expenses. However, under the current rules for certain expenses (e.g. tuition fees, textbooks, stationery, etc.), the first AUD250 is not tax deductible. In this Budget, the Government has announced that it will remove this exclusion effective from 1 July following the enactment of enabling legislation. This means that if legislation is enacted before 30 June 2021, all self-education expenses relating to a prescribed course of education would be deductible in the 2021-22 tax year.

Personal income tax rates and thresholds

Although there are no changes to the personal income tax rates or thresholds, the Low and Middle Income Tax Offset (LMITO), initially presented as a one-off measure for the 2020-21 tax year, has been extended one more year until 30 June 2022.

Superannuation Guarantee (SG) percentage increase

The SG rate will increase from 9.5% to 10% from 1 July 2021, as currently legislated. There was no change to the already legislated phasing of future increases that will see the rate increase to 12% by 1 July 2025.

The takeaway

The 2021-22 Australian Federal Budget supports the next phase of Australia’s business-led economic recovery and positions business and workforce at the centre point of Australia’s return to growth.

The Australian tax residency rules have not changed for over 80 years. They are quite subjective and we have seen an escalation of disputes before the courts so simplifying these rules and getting certainty around how they are applied is a welcome change.

Similarly, with changes to the ESS rules, the Government has heeded calls for reforms to grow and attract international talent who have the potential to propel Australian growth. However, while welcomed, the reform could have gone further, especially to drive a much higher take-up in employee share ownership.

Finally, while the Government has reconfirmed its commitment to the 'visas streamlining to target highly skilled individuals' and the existing Global Talent Visa scheme, no specific announcement has been made with regards to Australian immigration.

Let's talk

For a deeper discussion of how this impacts your business, please contact your Global Mobility Services engagement team or one of the following professionals:

Global Mobility Services – Australia

Jonathan Dunlea, PwC Australia, Leader
jonathan.b.dunlea@pwc.com

Global Mobility Services – Global

Leo Palazzuoli, PwC United Kingdom, Leader
leo.palazzuoli@pwc.com

Meet the Global Mobility Services global leadership team