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20 May 2019
Australia 2019/14

Tax Insights

Coalition Government returned: tax agenda

Snapshot

Following the election and pending final vote counting, it is expected that Prime Minister Scott Morrison will lead a Coalition Government in the 46th Federal Parliament. It remains to be seen whether the Coalition will govern as a majority government or as a minority government with the support of independents. It is expected that Josh Frydenberg and Mathias Cormann will continue as Treasurer and Finance Minister.

This Tax Insight publication collates the various Coalition tax and tax-related policies in the following policy groupings:

- Business taxation
- Small business
- Multinational taxation
- Individual taxation.

The Coalition plan

The Coalition campaigned under the banner of Building our economy, Securing your future. The Coalition plan is to:

- "Create 1.25 million **more jobs** over the next five years.
- Maintain budget surpluses and **pay down Labor's debt.**
- Deliver **tax relief** for small businesses and families.
- Guarantee increased investments for **schools, hospitals and roads.**
- **Keep Australians safe** and our borders secure."

Measures introduced but not passed in the last Parliament

A number of measures were introduced by the Coalition in the last Parliament but were not passed:

Business tax

- Reforming the R&D Tax incentive regime (see further comments below)
- Amending the definition of a significant global entity, and creating a new concept of a "country by country reporting entity"
- Introducing GST on offshore hotel bookings

Thin capitalisation/interest deductibility

- Removing the ability for entities to revalue their assets for thin capitalisation purposes
- A technical amendment ensuring that foreign controlled Australian tax consolidated groups and multiple entry consolidated groups that have foreign investments or operations are treated as both outward investing and inward investing entities

Capital gains tax

- Applying the principal asset test on an associate-inclusive basis for capital gains made by foreign residents
- Removing the entitlement to the main residence CGT exemption for foreign residents
- Introducing a CGT discount of 10% on additional affordable housing

Superannuation

- Legislating a Superannuation Guarantee Charge (SGC) amnesty
- Allowing some employees to opt-out of SGC
- Introducing an objective of superannuation
- Increasing the maximum membership of a SMSF from 4 to 6 members
- Reintroducing the 'opt-in' rule for insurance with superannuation

Other tax administration

- Creating a new Commonwealth business registry and director identification numbers
- Removing Luxury Car Tax on cars reimported after refurbishment overseas
- Establishing new criminal offences and civil penalties for illegal phoenixing activity.

It would be expected that the various measures will be reintroduced in the new Parliament by the Coalition.

Treasury consultations in progress

The following Treasury consultation processes were still open prior to the election, and we expect will continue in the new Parliament:

- On 5 April 2019, the Government opened consultation into Petroleum Resource Rent Tax: Review of Gas Transfer Pricing arrangements; and
- On 3 April 2019, the Government announced proposals to improve the ability of small businesses to offer employee share schemes to help them attract, retain and motivate employees and grow their businesses.

Business taxation

The Coalition's recent legislative program, so far as it is relevant to business, has had a focus on the Black Economy (including illegal tobacco and phoenixing activity); additional integrity measures, especially in relation to multinational tax; and the Enterprise Tax Plan. The political realities meant that the Enterprise Tax Plan resulted in a phased reduction in the company tax rate to 25% for eligible companies with turnover up to $50 million.

Previously, major reforms to the superannuation tax system were tackled. Significant legislation was passed to address multinational tax avoidance and base erosion and profit shifting, additional funding was provided to the ATO, and increased transparency measures were developed.

Company tax rate

After the long and drawn out Enterprise Tax debate, the legislated position is a lower tax rate (25 per cent) for eligible companies with up to $50 million turnover. This is not expected to change:

Income year	Eligible company rate (per cent)	Other company rate (per cent)
2019-20	27.5	30
2020-21	26	30
2021-22 onwards	25	30

During the course of the campaign, Scott Morrison was asked about pursuing a cut to the rate of company tax in the future. He replied :

> *"I can't see the opportunity for that in the near term or at any point at this stage. I mean, as you know we took that to the Australian people at the last election, we were returned and the Labor Party in the Senate voted against it and so that is not something I'm taking to this election"*[1].

PRRT

Treasury Laws Amendment (2019 Petroleum Resource Rent Tax Reforms No. 1) Bill 2019 was passed prior to the calling of the election, which legislated to reduce the uplift rates that apply to certain categories of carried-forward expenditure and removed onshore projects from the scope of the petroleum resource rent tax regime.

[1] AFR Business Summit, 5 March 2019

R&D Tax Incentive

The Coalition has previously announced plans to restructure the Commonwealth Science Council, which has not met since 2017. It is now to be expected that a National Science and Technology Council will become the peak advisory body to the Prime Minister and other Ministers on science and technology. The new Council will be expected to identify research projects, oversee reports into longer-term science and technology priorities, and provide expert advice on issues such as health, emerging technologies and education.

It is to be expected that the Coalition will start to pursue the savings from its planned amendments to the R&D Tax Incentive. This policy was largely based on the recommendations of the 2016 Review of the R&D Tax Incentive report.

However, it is unlikely that the Bill will be re-introduced in the same form as when it lapsed. The Coalition will need to address the issues that the Senate Economics Legislation Committee recommended in February 2019. The Senate comments on the original Bill included:

- The need for a refined approach to the proposed cap on the refundable tax offset within the context of investment decisions that have already been taken;
- A refinement of any proposed R&D intensity measure, which should reflect the inherent differences in R&D intensity across industries and potential negative impacts on businesses with large operating costs;
- The absence of a collaboration premium that was recommended by the 2016 review (with Labor recently announcing that it would have introduced a 10% collaboration premium); and
- The need for the substantial mooted savings to be reinvested in R&D-focused activities, possibly by increased direct funding grants.

Government Grants & Incentives

Under the re-elected Coalition Government, the $5 billion Northern Australia Infrastructure Facility, and the CRC-P innovation grant programs will both continue. An additional $200 million has also been made available for further rounds of the Building Better Regions Fund, promoting investment in regional and rural Australia.

Funding programs supporting the medical, biotech and defence sectors will also continue through initiatives such as the Medical Research Future Fund and Centre for Defence Industry Capability.

Additional funding of $60 million will also support an expanded Export Market Development Grants scheme. Funding of $50 million has also been announced for a new Manufacturing Modernisation Fund, supporting the sector in the on-going journey to Industry 4.0.

Small business

Instant asset write off

The Coalition has previously announced enhancements to the instant asset write-off regime. Following to the April 2019 Budget, an unusual flurry of bipartisan cooperation saw the extension of the instant asset write-off go from an announcement on 2 April 2019 to passed law on 4 April 2019.

Key features of the instant asset write-off, available to 30 June 2020, are:

- From 29 January 2019: the threshold below which amounts can be immediately deducted was increased from $20,000 to $25,000
- From 2 April 2019: the threshold was further increased from $25,000 to $30,000, and the regime was extended to businesses with turnover up to $50 million.

Division 7A

As part of the 2019-20 Federal Budget, the Coalition announced a deferral of the start date for proposed changes to Division 7A until 1 July 2020.

Funding for small business

The Coalition will establish the $2 billion Australian Business Securitisation Fund to increase access to more competitive finance, starting on 1 July 2019, for aspiring and existing small businesses to secure finance to start or expand their business.

The Coalition will also establish the Australian Business Growth Fund. The Growth Fund will significantly enhance small and family businesses' ability to access funding. The Government will provide $100 million in funding. Partnering with financial institutions the aim is for the Growth Fund to expand to $1 billion as it matures. It is expected to back 30-50 businesses each year with annual turnovers between $2 million and $50 million.

Other small business matters

The Government has recently made announcements to proceed with the following measures:

- Creation of a small business concierge service within the Australian Small Business and Family Enterprise Ombudsman's office that will support small businesses without legal representation in disputes with the ATO; and
- Creation of the Small Business Taxation Division within the AAT.

To assist small businesses in their cash flow, from 1 July 2019, the Government has also warranted to pay Commonwealth agency bills under $1 million with 20 days (rather than 30 days). Large businesses tendering for government contracts will be required to match this 20-day policy. Businesses with a turnover of over $100 million and government agencies will be required to publish their payment information.

The Morrison Government will consult on further strengthening protections to small business from unfair contract terms.

Multinational taxation

Thin capitalisation

Prior to the election, a Bill was in the Parliament that will remove the ability for entities to revalue their assets for thin capitalisation purposes. This will adversely impact a number of companies that relied for on this approach.

In addition, the Bill made a technical amendment ensuring that foreign-controlled Australian tax consolidated groups and multiple entry consolidated groups that have foreign investments or operations are treated as both outward investing and inward investing entities.

Digital tax

The Treasurer announced on 20 March 2019 that Australia would not proceed with an interim digital services tax. Australia will join other members of the OECD's Inclusive Framework on Base Erosion and Profit Shifting (BEPS) to discuss the tax challenges arising from the digitalisation of the economy and progress towards a final report due in 2020 aimed at providing a consensus-based multilateral solution.

Stapled groups and related measures

A Bill was passed just prior to the calling of the election to address stapled groups and related measures. The Bill deals with the following:

Measure	Start date
Increases the managed investment trust (MIT) withholding rate to 30 per cent for non-concessional MIT income if it is attributable to income that is: • MIT cross staple arrangement income; • MIT trading trust income: • MIT agricultural income; or • MIT residential housing income	Broadly 1 July 2019.
Modifies the thin capitalisation rules to prevent double gearing structures	Income years starting on or after 1 July 2018
Limits the withholding tax exemption for superannuation funds for foreign residents	Broadly 1 July 2019.
Codifies and limits the scope of the sovereign immunity tax exemption	Broadly 1 July 2019

Other measures

As part of the 2019-20 Federal Budget, the Coalition announced:

- Clarification ("minor amendments") of hybrid mismatch rules; and
- Amendments to the International Tax Agreements Act to include the deemed source rule (typically located in Australia's tax treaties).

Individual tax measures

The Coalition's program (including the 2019-20 Federal Budget), so far as it is relevant to individuals, has been on delivering tax cuts for individuals via a marginal tax bracket and rate overhaul over the term 2018-2024, and tweaking the superannuation system to increase efficiency and flexibility. One-off Energy Assistance Payments have also been offered for certain categories of welfare recipients.

Australians will soon have better visibility over their employer's payroll and superannuation payments with the wider introduction of single touch payroll.

A heavy focus on the Black Economy has resulted in tighter reporting of contractor payments in some high-risk industries, tighter rules around the non-payment of PAYG and superannuation guarantee, and new measures to attack phoenixing activity and illegal tobacco. These reforms follow on from the extensive changes to the rules on superannuation during the Coalition's previous term.

The Coalition strongly ran against Labor policies on matters such as the taxation of trust distributions, franking credit refunds, negative gearing and CGT discount. The election result will take any reform to such matters off the table for the foreseeable future.

The Coalition's announced but unenacted personal tax agenda includes:

- Further tax relief for low and middle-income earners announced in the 2019-20 Federal Budget comprising of an increase to the low and middle-income tax offset, an increase to the low-income tax offset and tweaking of rates and thresholds in future years (see table below);
- A Board of Taxation review of tax residency rules for individuals;
- A review of remote area tax assistance;
- Review of granny flat arrangements;
- Tightening rules around taxation of income for an individual's fame and image;
- Removal of the CGT main residence exemption for foreign residents; and
- Funding of tax clinics.

Individual tax rates

The Coalition's proposed tax rates further to the 2019-20 Federal Budget are as follows:

Rate (%)	Stage 1 From 1 July 2018 Income range ($)	Stage 2 From 1 July 2022 Income range ($)	Stage 3 From 1 July 2024 Income range ($)
Tax free	0-18,200	0-18,200	0-18,200
19	18,201-37,000	18,201-45,000	18,201-45,000
30			45,001-200,000
32.5	37,001 – 90,000	45,001 – 120,000	
37	90,001-180,000	120,001-180,000	
45	>180,000	>180,000	>200,000
Low & middle income tax offset	Up to 1,080		
Low income tax offset	Up to 445	Up to 700	Up to 700

Main residence CGT exemption for foreign residents

The Coalition has previously announced changes to the main residence CGT exemption for foreign residents. A Bill was in Parliament prior to the election and lapsed.

One of the key transitional dates was that the measure should not apply in certain cases prior to 30 June 2019. It is not known whether any of the commencement or transitional dates will be modified given the delay in finalizing the law.

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