

2011 Budget

1. Changes effective 1 July 2010 (i.e., 2010/11 income year)

Medicare levy low income thresholds

For the 2010/11 income year, the Medicare Levy low income thresholds will be as follows:

- Individuals \$18,839 (previously \$18,488)
- Families \$31,789 (previously \$31,196)

The additional amount of threshold for each dependent child or student will also be increased to \$2,919 (previously \$2,865). The Medicare levy threshold for single pensioners below Age Pension age will be increased to \$30,439 (previously \$27,697) for the 2010/11 income year.

Trust taxation – interim changes to the taxation of trust income

As previously announced, the Government will introduce legislation, with effect from 1 July 2010, to:

- enable the streaming of capital gains and franked distributions;
- target the use of low tax entities, especially exempt entities, to reduce the tax payable on the taxable income of a trust; and
- ensure that trust beneficiaries can continue to use the primary production averaging and farm management deposits provisions in a loss year.

2. Changes effective Budget Night – 7.30pm 10 May 2011

Reforms to the car fringe benefit rules

The Statutory Formula method for determining the taxable value of car fringe benefits will be reformed by replacing the current four statutory rates with a single flat rate of 20% that applies regardless of the distance travelled. This reform will only apply to new vehicle contracts entered into after 7:30pm AEST on 10 May 2011, and will be phased-in over four years, as set out in the following table.

Distance travelled during the FBT year (1 April – 31 March)	Statutory rate (multiplied by the cost of the car to determine the value of a person's car fringe benefit)				
	Existing contracts	New contracts entered into after 7:30pm AEST on 10 May 2011			
		From 10 May 2011	From 1 April 2012	From 1 April 2013	From 1 April 2014
0 – 15,000 km	0.26	0.20	0.20	0.20	0.20
15,000 – 25,000 km	0.20	0.20	0.20	0.20	0.20
25,000 – 40,000 km	0.11	0.14	0.17	0.20	0.20
More than 40,000 km	0.07	0.10	0.13	0.17	0.20

Compared to the current statutory formula rates, a single flat rate of 20% will:

- increase the tax concession provided for vehicles driven less than 15,000 kilometres a year;
- maintain the current tax concession provided for vehicles driven between 15,000 and 25,000 kilometres a year; and
- decrease the tax concession provided for vehicles driven more than 25,000 kilometres a year.

People who use their vehicle for a significant amount of work-related travel can still use the Operating Cost (log book) method to ensure their car fringe benefit excludes any business use of the vehicle.

Capital Gains Tax ('CGT') initiatives

1. **Amendments to the scrip for scrip roll-over provisions** – The Government will amend the scrip for scrip roll-over integrity provisions that apply to individuals and companies in relation to transactions where stakeholders in the target and acquiring entities have the potential to influence both entities, to ensure they apply to all stakeholders, for CGT events happening after 7.30pm AEST on 10 May 2011. Currently, some trusts, superannuation funds and life insurance companies consider that the integrity provisions do not apply to them on the basis that they own the interests for the benefit of others (i.e., the beneficiaries), rather than for their own benefit.
2. **Amendments to the small business tax concessions** – For CGT events happening after 7.30pm AEST on 10 May 2011, amendments will ensure that trusts cannot avoid being treated as a 'connected entity' for the purposes of being eligible to access the range of small business tax concessions (e.g., immediate deduction for certain prepayments) on the basis that trusts do not own assets for their own benefit. These amendments will also ensure that some small businesses will be able to access the small business CGT concessions by treating their business assets as 'active' for the purposes of these concessions.
3. **Limiting the trading stock exception for superannuation funds** – The trading stock exception to the 'CGT primary code rule' for complying funds in relation to specified assets (mainly shares, units in a trust and land) will be removed from 7.30 pm AEST 10 May 2011. This will ensure that gains or losses on specified assets are subject to CGT and, in particular, that losses can only be offset against capital gains rather than other income. Transitional rules will ensure that assets held or accounted for as trading stock before the time of announcement are not affected.

3. Changes effective 1 July 2011 (i.e., 2011/12 income year)

Dependent Spouse Tax Offset – Phase-out

The Dependent Spouse Tax Offset will be phased out for taxpayers with a dependent spouse born on or after 1 July 1971. This reform is aimed at progressively removing the tax concession for taxpayers with a non-working spouse and no children. This change will not affect taxpayers with an invalid or permanently disabled spouse, taxpayers whose dependent spouse is a carer, or taxpayers who are eligible for the zone, overseas forces or overseas civilian tax offsets.

This reform means that from 1 July 2011, taxpayers with a dependent spouse born on or after 1 July 1971 will no longer be eligible for the Dependent Spouse Tax Offset.

Changes to the Low Income Tax Offset ('LITO')

From 1 July 2011, the following changes will apply with regards to the LITO:

- (a) **Bring forward of LITO** – The amount of the LITO that is delivered to low and middle income earners through their regular pay during the year will be increased to 70% (previously 50%) of their total entitlements. The remaining 30% of their LITO benefit will still be paid as a lump sum on assessment of income tax returns.
- (b) **Removing eligibility of minors for LITO on unearned income** – The tax law will be amended to remove the ability of minors (children under 18 years) to access LITO to reduce tax payable on their unearned income, such as dividends, interest, rent, royalties and other income from property. The stated objective of this measure is to discourage income splitting between adults and children.

Income earned by minors from work will still be eligible for the full benefit of the LITO. Unearned income of minors who are orphans or disabled, as well as compensation payments and inheritances received by minors will not be affected by this measure.

Disallow deductions against government assistance payments

With effect from 1 July 2011, the tax law will be amended to prevent deductions being claimed against all government assistance payments. This is in response to the 2010 High Court decision in *Commissioner of Taxation v Anstis [2010] HCA 40*.

As stated in the Budget papers, commencing this measure from 1 July 2011 will allow individuals who receive a student Youth Allowance to claim a deduction for expenses incurred in gaining their payment for the 2010/11 income year. This is to ensure individuals who have maintained records of their expenditure following the High Court decision are not precluded from claiming a deduction.

Reduction in the minimum payment amounts for account-based pensions

The Government will phase out the pension drawdown relief that has been provided over the last three years. Minimum payment amounts for account-based, allocated and market linked (term allocated) pensions will be reduced by 25% for 2011/12 and will return to normal in 2012/13.

Superannuation — Refund of excess concessional contributions

The tax law will be amended to provide eligible individuals with the option to have excess concessional contributions taken out of their superannuation fund and assessed as income at their marginal rate of tax, rather than incurring excess contributions tax.

The measure will apply where an individual has made excess concessional contributions of up to \$10,000 (not indexed) in a particular year, and is only available for breaches in respect of the 2011/12 and later income years, and only for the first year, commencing from 2011/12, in which a breach occurs. Excess concessional contributions are currently taxed at 31.5%, in addition to the 15% tax when contributions are made to the fund.

Countering fraudulent phoenix activities by company directors

The Government announced that it will strengthen the tax law to counter fraudulent phoenix activity, which involves a company intentionally accumulating debts to improve cash flow or wealth, and then liquidating to avoid paying the debt. The business is then continued as another corporate entity, controlled by the same person or group and free of their previous debts and liabilities.

With effect from 1 July 2011:

- the director penalty regime will be extended to superannuation guarantee amounts, making directors personally liable for their company's failure to pay employee superannuation;
- the ATO will be given the power to commence recovery against directors under the director penalty regime, without providing a 21 day grace period, for certain unpaid company liabilities that remain unreported after three months of becoming due; and
- in certain circumstances, directors and associates of directors will be prevented from obtaining credits for withheld amounts in their individual tax returns where the company has failed to pay withheld amounts to the ATO.

4. Changes effective 1 July 2012 (i.e., 2012/13 income year)

Small business reforms

The Government has announced the following tax reforms for small businesses:

- (a) **Entrepreneurs' Tax Offset ('ETO') abolished** – The ETO will be abolished with effect from the 2012/13 income year and replaced with a small business tax package that includes an immediate initial deduction for motor vehicles (refer below) and previously announced reforms (refer below) in order to better target tax incentives.

- (b) **Immediate \$5,000 initial deduction for motor vehicles** – Small businesses will be allowed to claim up to \$5,000 as an immediate deduction for motor vehicles acquired from the 2012/13 income year. The remaining cost of the vehicle value will be added to the General Small Business pool and depreciated at 15% in the first year and 30% in the second and later years under the existing simplified depreciation rules for small business entities.

It should be noted that, although the Government's announcement does not make any reference to the effect of a motor vehicle's private use, it is expected that a claim will only be available for the business use portion of a vehicle.

The following example has been adapted from the May 2011 Budget Overview and illustrates the operation of this initiative.

EXAMPLE – Immediate \$5,000 write-off for purchase of a motor vehicle

Adam is an electrician and carries on business as a sole trader. On 1 July 2012, Adam purchases a new ute costing \$33,960 solely for use in the business. For tax purposes, Adam is a Small Business Entity (as defined in S.328-110 of the ITAA 1997) and has a 30% marginal tax rate.

Under the current depreciation rules for SBEs, the cost of \$33,960 would be allocated to the General Small Business Pool and depreciated at 15% in the first year the ute is used in the business. This results in a depreciation deduction of \$5,094 (i.e., \$33,960 x 15%) in the first year.

Under the proposed changes, Adam would be entitled to an up-front deduction of \$5,000 on the purchase price of the ute and a depreciation deduction of \$4,344 on the remaining cost of \$28,960 (i.e., \$33,960 – \$5,000) in the first year, calculated at the rate of 15% (i.e., \$28,960 x 15%). Therefore, Adam's total deduction in the first year would be \$9,344 (i.e., \$5,000 + \$4,344) compared with \$5,094 under the existing rules.

Therefore, under the proposed measures, Adams will receive an additional tax deduction of \$4,250 (i.e., \$9,344 – \$5,094), which equates to a **tax saving of \$1,275** (i.e., \$4,250 x 30%).

- (c) **Small business measures previously announced** – The Government's tax reforms for small businesses include the following measures previously announced to apply from 2012/13:

- an immediate write-off of all assets valued at under \$5,000 (currently, \$1,000);
- a write-off of all other assets (except buildings) in a single depreciation pool at a rate of 30%. Currently, small businesses allocate assets to two different depreciation pools (i.e., the general and long life pools), with two different depreciation rates (i.e., 30% and 5% respectively); and
- an early reduction in the company tax rate to 29% (previously announced as 28%) for incorporated small businesses. For all other companies, the corporate tax rate will be reduced to 29% for 2013/14 and then to 28% from 2014/15 (as previously announced).

Superannuation – Higher concessional cap for over 50s

From 1 July 2012, the higher concessional superannuation contributions cap for eligible individuals aged 50 and over with total superannuation balances of less than \$500,000 will be set to \$25,000 above the general concessional cap. This measure clarifies the operation of the higher cap for the over 50s which was announced in the 2010/11 Budget.

The current transitional concessional contributions cap for eligible individuals over 50 is \$50,000 (up to 30 June 2012).

Reporting taxable payments – Building and Construction Industry

From 1 July 2012, certain businesses will be required to report annually on payments made to contractors in the building and construction industry. The reporting regime will require businesses to report information that they should already collect under existing tax arrangements.

This measure will improve voluntary compliance and includes a \$46.4 million increase in ATO funding which will allow it to undertake data matching, reviews of contractors' tax liabilities and targeted audits.

The Government will also consult publicly on options to introduce a similar reporting regime for payments to contractors in the commercial cleaning industry.

Reporting payments of superannuation to employees

With effect from 1 July 2012, employees will receive information on their payslips about the amount of superannuation actually paid into their account, and employees and employers will receive quarterly notification from their superannuation fund if regular payments cease.

5. Other Budget announcements

Further key initiatives announced in the 2011 Federal Budget include the following:

- (a) **Reduction in GDP-adjusted Pay As You Go ('PAYG') income tax instalments** – For the 2011/12 income year only, the GDP adjustment factor used for calculating PAYG instalments under the GDP adjustment method will be reduced from 8% (i.e., the statutory rate that would otherwise apply for 2011/12) to 4%. The statutory rate will apply as normal from 2012/13. This measure will provide cash flow benefits, particularly to small businesses.
- (b) **Incentives for renewable resource assets** – The Government will “turn off” the income tax assessable recoupment rules in relation to renewable resource assets acquired with the benefit of certain government incentives to ensure that the incentive keeps its full financial value. For example, under the Federal Government's Renewable Energy Target ('RET') scheme, owners of renewable resource assets (e.g., photovoltaic solar cells or solar hot water systems) are granted a right to create 'certificates' to partially compensate them for the cost of the asset. Currently, the value of the right is an assessable recoupment under S.20-20(2) of the ITAA 1997 if the asset is used for income-producing purposes (e.g., in a rental property). Refer also to ID 2010/218.

In addition, the Government will exempt from CGT, any gains or losses arising from a right to a financial incentive granted to taxpayers under an Australian government scheme that encourages them to acquire renewable resource assets (e.g., photovoltaic solar cells or solar hot water systems).

These measures will apply to income tax assessments for the 2007/08 and later income years.

- (c) **Small business CGT concessions** – The Government will amend the small business CGT concessions to ensure that taxpayers can have a 'direct small business participation percentage' in situations where shares in a company are jointly-held by taxpayers or where a discretionary trust has not made a distribution in an income year where the trust had a tax loss or no net income for that year.
- (d) **Deceased estates and the CGT main residence exemption** – The Government will provide the Commissioner with a discretion to extend the two-year ownership period in which the trustee of a deceased estate or beneficiary of such an estate must dispose of their interest in the deceased's dwelling to access a full CGT main residence exemption (or a more generous partial exemption). This change is expected to apply from the date the legislation receives Royal Assent.
- (e) **Changes to farm management deposits ('FMDs')** – Primary producers affected by natural disasters will be allowed to access their FMDs within 12 months of making a deposit while retaining concessional tax treatment under the scheme. The Government will also make some minor changes including, for example, allowing FMDs to be held with more than one financial institution.
- (f) **GST changes** – The start date for several measures implementing recommendations of the Board of Taxation's review of the legal framework for the administration of the GST that were to commence from 1 July 2011 will be deferred. This includes reforming the change of use adjustment rules, clarifying the treatment of tax law partnerships and introducing a reverse charge for supplies of going concerns and farmland. The revised start date will be the first quarterly tax period after Royal Assent, or, where appropriate, a later quarterly tax period after Royal Assent.

Furthermore, the current GST instalment system will be extended to allow access for small businesses that are in a 'net refund position'. A business is in a net refund position when it is entitled to receive more input tax credits on its purchases than it is required to pay GST on its sale. Currently, a business that is in a net refund position cannot pay GST by instalments. This measure will come into effect following Royal Assent of the enabling legislation.

(g) **Superannuation changes** – The Government will:

- continue the freeze on the indexation of the income threshold above which the maximum superannuation co-contribution begins to phase down for an additional year to 2012/13 (previously, indexation of the thresholds was frozen for the 2010/11 and the 2011/12 income years). This ensures that, from 2010/11 until 2012/13, the maximum co-contribution of up to \$1,000 is available for people with incomes of up to \$31,920 with the amount available phasing out for incomes up to \$61,920;
- amend S.17A of the SIS Act so that where the trustee of an SMSF is a company, a parent or guardian may be director of the body corporate in place of a member that is a minor;
- the SMSF levy will be increased by \$30 with effect from the 2011 income year; and
- introduce SMSF auditor registration fees from 1 July 2012.

(h) **Family Tax Benefit ('FTB') Part A** – From 1 July 2011, families will be eligible for an advance of up to 7.5% of their total rate of FTB Part A payment, up to a maximum of \$1,000. For example, a family with two children under 12 will be able to receive an advance payment of up to \$644.

(i) **Indexation of family payments frozen** – The Government will pause indexation of the following family payment higher income thresholds and limits at their current levels until 1 July 2014:

- Family Tax Benefit ('FTB') Part B primary earner income limit, which will remain at \$150,000;
- the income limit for receiving the dependency tax offsets, which will remain at \$150,000;
- the Baby Bonus eligibility limit, which will remain at \$75,000 of family income in the six months following the birth or adoption of a child, equivalent to \$150,000 a year;
- the Paid Parental Leave primary carer income limit, which will remain at \$150,000 in the financial year before the birth or adoption of a child;
- the higher income-free threshold of FTB Part A, which will remain at \$94,316 of family income, with an additional \$3,796 provided for each child after the first; and
- the FTB Part A and B supplements, which will be fixed at the current levels of \$726.35 per annum per child for FTB Part A and \$354.05 per annum for FTB Part B.

(j) **FBT exemption for fly-in fly-out arrangements** – The FBT exemption for domestic fly-in fly-out arrangements will be extended to cover Australian residents working in remote areas overseas, with effect from 1 July 2009 (i.e., the date the exemption in S.23AG of the ITAA 1936 for foreign employment income was generally abolished).

(k) **HECS** – From 1 July 2012, the following discounts applying to HECS payments will be reduced:

- The discount for making an up-front payment will be reduced from 20% to 10%; and
- The bonus on voluntary payments of \$500 or more will be reduced from 10% to 5%.