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The Peak Partnership
BUSINESS ADVISERS

PINNACLE Newsletter

INSIDE THIS ISSUE

VIEW FROM THE PEAK

with Robyn Henshaw

The Federal Budget has been announced for another year, and now we're all trying to understand what's in it for us.

The Government has an obvious strategy to forego a return to surplus for some time – instead, the plan is to spend and invest our way back to economic prosperity post-COVID.

There's no reduction in income tax rates (changes are slated for 2024-25), but the Low and Middle Income Tax Offset remains – with an offset up to $1,080.

It's encouraging to see the extra attention and support for families with young children and women (especially those impacted by domestic violence).

There will be advocates and detractors of any Budget, but this one seems quite balanced for the current climate.

ATO on the JobKeeper trail.

JobKeeper, the financial lifeline that saved many businesses and workers through the height of the COVID pandemic, might be over – but that's not stopping the Australian Tax Office (ATO) from making sure the payments were correctly received and distributed.

The ATO has recently announced that it's keeping an eye out for areas of concern in relation to JobKeeper (which ended on 28 March 2021), including what may constitute "fraudulent behaviour".

It is paying special attention to situations where employers may have used the JobKeeper scheme in ways that avoided paying employees their full and rightful entitlements.

Businesses are being examined where the ATO is concerned they may have:

- made claims for employees without a nomination notice or have not paid their employees the correct JobKeeper amount (before tax);
- made claims for employees where there is no history of an employment relationship;
- amended their prior Business Activity Statements to increase sales in order to meet the turnover test; or
- recorded an unexplained decline in turnover, followed by a significant increase.

Individual taxpayers are also being investigated where the ATO suspects they may have knowingly made multiple claims for themselves as employees or as eligible business participants, or made claims both as an employee and an eligible business participant.

The business of the 2021 Budget.

As a part of its strategy to drive economic recovery from the pandemic, the Government has extended many concessions to businesses in the hopes of driving the unemployment rate down and increasing GDP.

Some of the measures expected to benefit businesses include the extension of temporary full expensing and loss carry-back. Small businesses will also be able to pause disputed ATO debt recovery in some cases, while those businesses affected by natural disasters may receive a tax exemption for certain grants.

The 2021 Federal Budget has been handed down with many sweeteners for businesses to help drive unemployment rates down and power the economic engine of Australia.

It has been forecast that the unemployment rate will fall below 5%, reaching 4.75% by the June 2023 quarter. Meanwhile, real GDP is predicted to grow by 1.25% in 2020-2021, rising to 4.25% in 2021-2022 and 2.5% in 2022-2023.

The suite of business measures announced in this latest Budget include:

TEMPORARY FULL EXPENSING EXTENDED UNTIL 30 JUNE 2023

The current temporary full expensing to allow eligible businesses to deduct the full cost of eligible depreciating assets will be extended until 30 June 2023. The measure was due to end on 30 June 2022 before the announcement of the extension.

Other than the extended date, all other elements of the temporary full expensing remain unchanged. This means that a business with annual aggregated turnover under $5 billion will qualify (new business assets only); or an annual aggregated turnover under $50 million (for new and second-hand assets).

LOSS CARRY-BACK ALSO EXTENDED BY ONE YEAR

The Government will also seek to extend the loss carry-back provisions by one year.

Under the original measure, eligible companies (with aggregated annual turnover of up to $5 billion) could carry-back a tax loss for the 2019-2020, 2020-2021 or 2021-2022 income years to offset tax paid in the 2018-2019 or later income years. Eligible tax loss years will now include the 2022-2023 year.

Tax refunds resulting from loss carry-back will be available to companies when they lodge their 2020-2021, 2021-2022 and now 2022-2023 tax returns. The Government notes that this measure will help increase cash flow for businesses in future years and support companies that were profitable and paying tax but find themselves in a loss position as a result of COVID-19.

SMALL BUSINESSES WILL BE ABLE TO PAUSE DISPUTED ATO DEBT RECOVERY

Legislation will be introduced to allow small businesses to pause or modify ATO debt recovery action where the debt is being disputed in the Administrative Appeals Tribunal (AAT).

Specifically, the changes will allow the Small Business Taxation Division of the AAT to pause or modify any ATO debt recovery actions, such as garnishee notices and the recovery of GIC or related penalties until the underlying dispute is resolved.

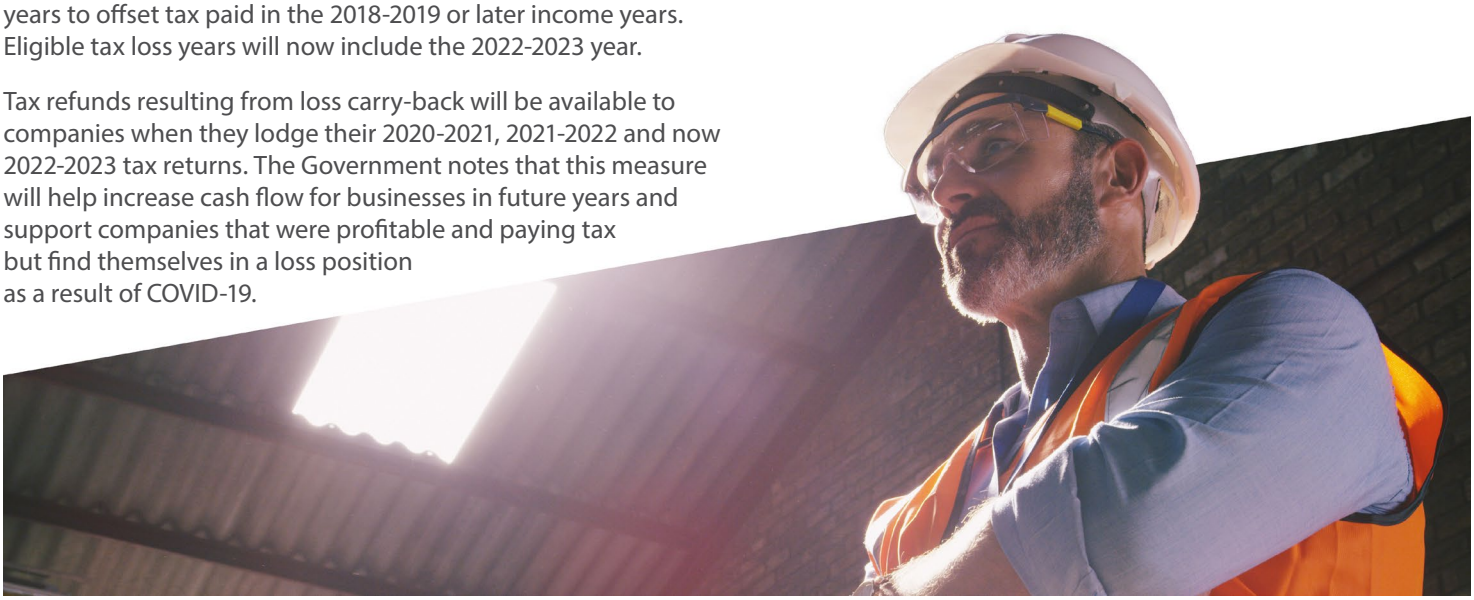
Small business entities (including individuals that carry on a business) with an aggregated turnover of less than $10 million per year will be eligible to use the option.

OTHER MEASURES: DISASTER RECOVERY GRANTS TAX EXEMPTION SELF-ASSESS EFFECTIVE LIFE

The Government will provide an income tax exemption for qualifying grants made to primary producers and small businesses affected by the storms and floods in Australia (including certain recovery grants).

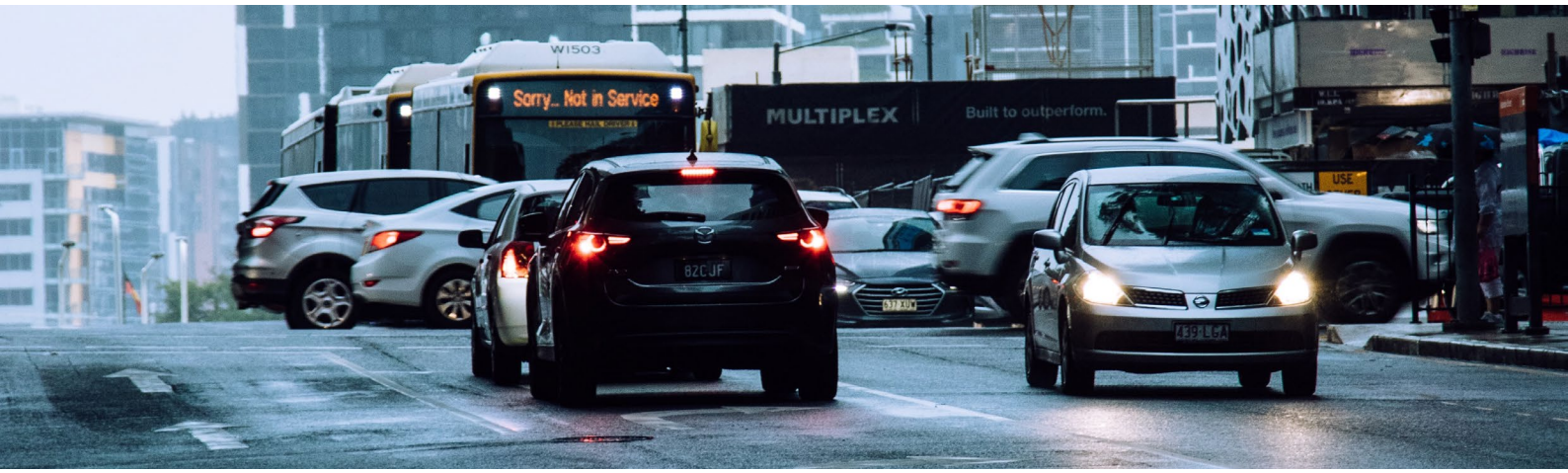
The Budget also confirmed that taxpayers will be able to self-assess the effective life of certain intangible assets (eg. intellectual property and in-house software) rather than being required to use the effective life currently prescribed.

Self-assessment of effective lives will apply to eligible assets acquired following the completion of the temporary full expensing measure.



Insurance payout? A question of tax.

Australia has had its fair share of disasters over the last few years – drought, bushfires and floods – that have ramped up the volume of insurance claims. Most people would assume that if and when they need to claim on their insurance, the insurance payout covers the damage and is not income assessed for tax purposes - but this is not always the case.



Insurance payouts for damaged or destroyed personal items are generally not taxed. For example, any insurance payout you receive for your family home won't necessarily be taxed. But, the rules are different if you have used your home to produce an income, for example, you have used part of your home as a home business or you have rented out part of your home.

The rules are also different if the item is a personal asset costing more than $10,000 or if the asset is a collectible that cost more than $500. Where the insurance proceeds exceed the original cost of the asset, that is, the asset appreciated in value, then capital gains tax might apply.

And, if the asset damaged is related to a business or an income producing asset like a rental property, the rules are also different.

BUSINESS PREMISES, TRADING STOCK AND DEPRECIATING ASSETS

For businesses that have had trading stock damaged or destroyed, any insurance payout is taxable. For example, the payouts on claims coming through from the enforced lockdowns for spoiled perishable stock would need to be included in the business's tax return. This is because the insurance premiums would have been claimed by the business as an expense. It is just a question of how the insurance is taxed.

If your business premises are damaged and the insurance covers repairs, then the amount you receive is generally taxed as income if you can claim a deduction for the repair costs. Where the premises are damaged or destroyed, then we'll need to work with you to identify if you have made a taxable gain or loss.

When it comes to depreciating assets like machinery, then it starts getting more complex. In general, if the insurance payout exceeds the written down value, then the payout is included in the business's assessable income, and if less, you can claim a deduction for the difference. However, there are also special rules for work cars, small businesses, and where a replacement item is purchased.

RENTAL PROPERTIES

A rental property is an income producing asset and, in most cases, the cost of insurance policies relating to the property would have been claimed as an expense. For example, if you receive a payout for your rental property as a result of a disaster, generally, you will need to include at least part of this amount as income in your tax return. This could include insurance payouts for loss of rental income, repairs, replacements of destroyed assets, or money received from a relief fund.

The treatment of the insurance proceeds depends on what the payout is for, how the insurance is used, and whether the rental property was vacant or in use.

A recent case before the Administrative Appeals Tribunal (AAT) shows how tricky this area of the tax rules can be. In this case, the taxpayer initially received insurance proceeds of $24,000 for lost rental income after their property sustained storm and flood damage. The taxpayer had declared this amount as income. All good so far.

Then, the taxpayer received an additional $250,000 from the insurer with the payment described as "in consideration of the taxpayer releasing the insurer from all liability past, present and future under the insurance policy". The taxpayer did not believe this money was for him to repair his property so did not claim it in his tax return. But, he did claim a deduction for repair costs totalling $130,000 in two income years.

The ATO subsequently audited the taxpayer and issued an assessment for the full $250,000. The AAT agreed with the ATO even though the taxpayer had only claimed $130,000 in repairs. It's possible this case will go to appeal but it serves as a warning that any lump sum payouts need to be very carefully assessed and dealt with.

If you have been impacted by a disaster and are uncertain of how any insurance proceeds will be taxed, please talk to us and we can work with you to help you understand your position.

Superannuation UPDATE

Quite often, a Federal Budget announcement means changes to superannuation rules. The 2021 Budget is no different and, while there aren't many changes this year, there are some to be aware of.

Understanding what's happening with your superannuation can be critical to enhancing your retirement wealth, so it pays to take the time to assess your personal circumstances and the opportunities available to you.

CONTRIBUTIONS CAPS

From 01 July 2021, concessional (pre-tax) and non-concessional contributions caps are going up. For concessional contributions, the maximum limit increases to $27,500 for the 2021-2022 financial year (up from $25,000).

Reviewing your salary sacrificing strategy to take advantage of the increased cap could be worthwhile, remembering that the superannuation guarantee (contributions from your employer) will increase to 10% from 01 July 2021 – automatically increasing your concessional contributions.

Non-concessional contributions will increase by a similar 10% to $110,000 for 2021-2022, and will include the three-year bring-forward rule that allows up to $330,000 in contributions in a single year, under certain circumstances.

The bring-forward rule is available to individuals under 65 years old, with a total superannuation account balance of less than $1.7 million (as at 01 July 2021). The amount of bring-forward contributions permitted is on a sliding scale, dependent on your super balance (as shown in the table below):

Total Super Balance (TSB)	Contribution & Bring-Forward
Less than $1.48 million	$330,000
$1.48 million to $1.59 million	$220,000
$1.59 million to $1.70 million	$110,000
Above $1.70 million	Nil

The Government has previously announced its intention to lift the age restriction to access the bring-forward rule to 67, but that has still not been passed into legislation. So it will likely be a 'wait and see' game before more people are eligible to make greater non-concessional contributions.

PENSION DRAWDOWNS

The Federal Government has extended the 50% reduction in superannuation minimum drawdown rates to 30 June 2022.

The 2021-2022 minimum pension drawdowns, relative to account-based pensions and annuities, allocated pensions and annuities, and market-linked pensions and annuities, will be:

Age at 01/07/2021	Minimum Pension	Age at 01/07/2021	Minimum Pension
Under 65	2.00%	Age 85 - 89	4.50%
Age 65 - 74	2.50%	Age 90 - 94	5.50%
Age 75 - 79	3.00%	Age 95 or older	7.00%
Age 80 - 84	3.50%		

DOWNSIZER CONTRIBUTIONS

It may not come into effect until 01 July 2022, but the age limit to access downsizer contributions will be lowered to 60 years of age (currently 65).

Downsizer contributions give the ability to make special extra contributions of up to $300,000 (or $600,000 in total for a couple) from the proceeds of selling the family home. The rules allow anyone who meets the age AND downsizer eligibility criteria (we suggest you seek advice on this) to make a downsizer contribution, no matter how much money they already have in super.

If you're in the 60 – 65 age bracket and you're thinking of selling your home, it might be best timed to do so after 01 July 2022 and take advantage of the downsizer contribution.

There could also be a perfect storm on the horizon, with downsizer and bring-forward contributions both being available to people in the 60 – 65 range (or even older if the government increases the bring-forward age). For some, that could mean a double-shot of contributions – but timing and planning will be critical to ensure your total super balance doesn't tip the scales of ineligibility.

There are some interesting months ahead around superannuation contributions, and much of the opportunity will be dependent on sound financial advice that aligns with the various eligibility rules, otherwise financial penalties can apply for exceeding contributions limits.

Can I be released from my tax debts?

As the economy adjusts to the removal of most COVID-19-related government support measures, coupled with the slow national vaccination rollout and mostly closed international borders, there is no doubt that many Australians are facing financial difficulties in the immediate short term. If you have a tax debt that is compounding your financial difficulties, there may be a solution – you may be able to apply to be permanently released from the debt, provided you meet certain criteria.

To be released from a tax debt you need to be in a position where paying those debts would leave you not able to provide for yourself, your family or others you're responsible for. This includes providing items such as food, accommodation, clothing, medical treatment and education.

When someone applies to be released from a tax debt, the Australian Tax Office (ATO) will look at their household income and expenditure to determine if they have the ability to pay all or part of the debt, and will set up a payment plan if required.

It will also look at the person's household assets and liabilities including their residential home, motor vehicle, household goods, tools of trade, savings for necessities, collections etc. and identify whether the sale of a particular asset could repay all or part of the tax debt.

Even when the ATO has established that the payment of a tax debt would cause the taxpayer serious hardship, it will look at other factors within that person's control that may have contributed to this hardship. For example, it will consider how the tax debt arose and whether the person has disposed of funds or assets without providing for tax debts, as well as their compliance history.

It will also check whether the person may have structured their affairs to place themselves in a position of hardship (eg by placing assets in trusts or related entities).

Debts that the ATO can consider for release include income tax, PAYG instalments, FBT and FBT instalments, Medicare levy and surcharge amounts, certain withholding taxes, and some penalties and interest charges associated with these debts.

Super guarantee rate increase to 10%.

On 01 July 2021, the Superannuation Guarantee (SG) rate will rise from 9.50% to 10% – the first rise since 2014. It will then steadily increase each year until it reached 12% on 01 July 2025.

The 0.50% increase does not mean that everyone gets an automatic pay increase, this will depend on your employment agreement.

If your employment agreement states you are paid on a 'total remuneration' basis (base plus SG and any other allowances), then your take home pay might be reduced by 0.50%. That is, a greater percentage of your total remuneration will be directed to your super fund.

For those paid a rate plus superannuation, then your take home pay will remain the same, but your superannuation fund will benefit from the increase. If you are used to annual increases, the 0.50% increase might simply be absorbed into your remuneration review.

Employers will need to ensure that they pay the correct SG amount in the new financial year to avoid the superannuation guarantee charge. Where employee salaries are paid at a point other than the first day of the month, ensure the calculations are correct across the month (ie. for staff paid on the 15th of the month they are paid the correct SG rate for June and July in their pay and not just the June rate).

Superannuation salary packaging arrangements will also need to be reviewed, and employers should make sure that the calculations are correct and the SG rate increase flows through.

Framed: **Stephen Nardi**

Amazing! Stephen Nardi has been with us for a decade this year and hasn't featured in our staff profiles…until now.

Stephen is our Superannuation Manager, specialising in SMSF (Self-Managed Super Fund) administration and compliance.

A highly-qualified financial professional, Stephen has a Bachelor of Business degree (Accounting and Financial Economics), he is a qualified CPA (Certified Practicing Accountant) and he is an accredited SMSF Specialist Advisor with the SMSF Association.

Before joining The Peak, Stephen had more than seven years' experience in SMSF and business accounting roles, so he has an in-depth knowledge of the investment options and regulatory obligations around SMSFs.

A process-driven operator, Stephen has built our Superannuation Administration area around efficiency and value for our SMSF clients.

A real asset to our team, Stephen is an advocate for automation tools that can streamline the SMSF compliance and reporting process. He also understands that making the most of an SMSF requires research, planning and collaborative discussion with clients.

Bad debts and business tax-deductions.

Financially-speaking, April 2021 was a closely observed month, with many Government COVID-19 economic support measures disappearing. Looking ahead, there's no doubt that some businesses will find themselves owed debts that cannot be recovered from customers or other debtors.

If your business is facing this type of unrecoverable debt, commonly known as a "bad debt", you may be able to claim a tax-deduction for the unrecoverable amount, depending on the accounting method you use.

If your business accounts for its income on an accruals basis – that is, you include all income earned for work done during the income year even if the business hasn't yet received the payment by the end of the income year – a tax deduction for a bad debt may be claimable.

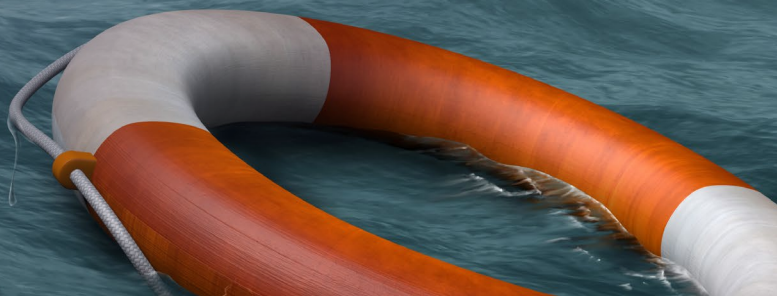
To claim a deduction for a bad debt, the amount must have been included in your business's assessable income either in the current year's tax return or an earlier financial year. You'll also need to determine that the debt is genuinely bad, rather than merely doubtful, at the time the business writes it off. Whether or not a debt is genuinely bad depends on the circumstances of each case, with the guiding principle being how unlikely it is that the debt can be recovered through reasonable and/or commercial attempts.

According to the ATO, making such attempts doesn't always mean you need to have commenced formal proceedings to recover the debt. Evidence of communications seeking payment of a debt, including reminder notices and attempts to contact the debtor by phone, mail and email, may be sufficient.

The next step to claim a bad debt tax-deduction is to write-off the debt as bad. This usually means your business has to record (in writing) the decision to write-off the debt before the end of the financial year in which you intend to claim a tax-deduction.

There may also be GST consequences for your business when writing off a bad debt. For example, if the business accounts for GST on a non-cash basis, a decreasing adjustment can be claimed where you have made the taxable sale and paid the GST to the ATO, but subsequently have not received the payment. However, the debt needs to have been written off as bad and have been overdue for 12 months or more.

Businesses that account for income on a cash basis cannot claim a tax-deduction for bad debts. This is because these businesses only include an amount in their assessable income when it's received, which means the bad debts have no direct income tax consequences.



07 3360 9888
17 Mt Gravatt-Capalaba Road
Upper Mt Gravatt Qld 4122

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