



TAX UPDATE

The stimulus packages announced over the last few months have ensured that the changes to various tax thresholds and rates, due to come into effect on 1st July 2020, have largely gone unnoticed. While there are not any significant changes, there are some which should be noted. These include:

- **Genuine Redundancy** – the base rate for 2000/21 has increased to \$10,989 and the annual rate has increased to \$5,496 per year. Legislation was also passed, in October 2019, which extended the concessional treat for redundancy and retirement payments to people who had reached the age based limit of 65 but not the pension age;
- **Maximum Super Contribution** – the base rate for superannuation guarantee payments has increased to \$57,090 for 2020/21;
- **ETP Cap** – this cap has increased to \$215,000 for 2020/21;
- **Division 7A** – the benchmark interest rate has been reduced to 4.52% for 2020/21. The changes to Division 7A previously intended to apply from 1 July 2020 have been delayed. This included the introduction of the 10 year loan concept. This provides some relief for those who are currently repaying their Division 7A loans under the 20 year model, but this is only a reprieve not a termination of the concept.

Company shareholders who are unable to make a minimum Division 7A annual repayment in the 2019/20 income year may be allowed an extension of time to pay by the ATO.

This extension will only be allowed by the ATO for the 2019/20 income year if the COVID-19 pandemic has affected the personal circumstances of the borrower.

If the request is granted, the borrower will have until 30 June 2021 to make the 2019/20 minimum annual repayment. This is in addition to the 2020/21 annual repayment (if any).

On approval, the ATO will inform the borrower that they will not be considered to have received an unfranked dividend.



This extension is intended to be used when a borrower is unable to pay, taking into consideration cash flow. The ATO is reminding taxpayers that making a false and misleading statement may bring significant penalties to the taxpayer.

- **The instant asset write-off** – these rules were introduced as part of the Covid concessions but there are some important dates which need to be kept in mind. The table below should assist in this regard:

Instant asset write-off tables – based on entity’s turnover

<u>Assessable income \$10m and under</u>	
Timeframe	Instant asset write-off limit
12 May 2015 to 28 January 2019	\$20,000
29 January 2019 to 2 April 2019 7:30pm (AEDT)	\$25,000
2 April 2019 7:30pm (AEDT) to 11 March 2020	\$30,000
12 March 2020 to 31 December 2020	\$150,000
From 1 January 2021	\$1,000
<u>Assessable income between \$10m and \$50m</u>	
Timeframe	Instant asset write-off/ Low value pool limit
Prior to 2 April 2019	\$1,000
2 April 2019 7:30pm (AEDT) to 11 March 2020	\$30,000
12 March 2020 to 31 December 2020	\$150,000
From 1 January 2021 (reverts to low value pool)	\$1,000
<u>Assessable income between \$50m and \$500m</u>	
Timeframe	Instant asset write-off/ Low value pool limit
Prior to 12 March 2020	\$1,000
12 March 2020 to 31 December 2020	\$150,000
From 1 January 2021 (reverts to low value pool)	\$1,000

- **Home Office Expenses** – individual taxpayers who are intending to claim a deduction for home office expenses for the time they have been working from home during the current health crisis should be aware that the ATO has published some standard rates which can be claimed without the need for extensive justification. If a taxpayer wishes to claim more than these safe-harbour rates he or she will need to retain the evidence which justifies the higher deduction.



The rates are as follows:

Key rate: Home office expense hourly rate

	Hourly rate for deducting home office expenses
1 March 2020 – 30 September 2020 (optional rate for shortcut method in response to COVID-19)	80 cents
1 July 2018 and onwards	52 cents
1 July 2014 – 30 June 2018	45 cents

- **Foreign Residents main residence exemption** – The last day for eligible foreign residents to sell their main residence was 30 June 2020 if they wanted to be exempt from Capital Gains Tax (CGT) for their capital gains. *The Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures) Act 2019* (Act No 129 of 2019) prevents certain foreign residents from accessing the CGT main residence exemption from 9 May 2017. However, transitional provisions in that Act allowed eligible foreign residents to rely on the exemption in respect of a CGT event that occurred on or before 30 June 2020.
- **Extension of Time to Access Superannuation** – The Government is extending the application period for individuals to obtain early access to their superannuation of up to \$10,000 from 24 September 2020 to 31 December 2020. All other aspects of the Government initiative remain the same.
- **Superannuation Amnesty** – employers are reminded that if they apply for amnesty by 7 September 2020 they may be able to get access to concessions for unpaid superannuation contributions for the period 1 July 1992 to 31 March 2018. The concessions allow employers to disclose and pay their previously unpaid superannuation guarantee charge, with nominal interest, without incurring the administrative penalty and the payments of the SGC will be tax deductible. The ATO has also indicated that payment plans may be permitted in the right circumstances.
- **FC of T v Eichmann, Federal Court of Australia, 20 December 2019** the High Court has granted the taxpayer leave to appeal the decision of the Federal Court. This case considered whether the CGT concession could be applied to the sale of land which had been acquired for the storage of work tools, equipment and materials in a building, brick-laying and paving business. The question was whether the land was an “active asset” for the purposes of Division 152 of the *Income Tax Assessment Act 1997*. The Federal Court held that in order for the use an asset to be “in the course of carrying on a business”, the use must have a direct functional relevance to the carrying on of the normal day to day operations of the business. In the case of the land, the Court held that at best the use was “in relation to” the course of carrying on the business, but was



not used “..... in the course of carrying on the business”. Accordingly, the Court held that the land was not an active asset.

This decision means that if you acquire land which is used purely for the storage of materials and equipment which are used for the business, this land will not be considered an active asset. Hopefully the High Court will see this differently. Surely, using land for storage of business material and equipment is all part of operating the business.

Note: The above is a summary for general information purposes only. It is not intended to be comprehensive or constitute legal advice. You should seek formal legal or other professional advice in relation to your particular circumstances before relying on the content of this article.

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