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Take the lead

Temporary full expensing of depreciating assets

Over the last year, the immediate expensing of assets has been subject to a raft of changes and extensions owing to the impact of COVID-19. In this alert, our tax experts have detailed the key dates and conditions pertaining to the eligibility of the instant asset write off and full expensing of depreciable assets announced in the 2020 Federal Budget.

11 January 2021

The multiple amendments to the rules have seen variations and extensions in eligibility thresholds, asset cost thresholds and installation date requirements. What was designed to be a simple tax cash flow benefit to encourage investment has now become relatively complex.

The Federal Government introduced the Full Expensing of Depreciable Assets (**FEDA**) measures in the 2020 Budget, which was an extension to the existing Instant Asset Write Off measures (**IAWO**).

As a guideline:

- IAWO apply to assets purchased prior to **Budget Night (6 October 2020)**
- FEDA measures apply to assets purchased on or after **Budget Night (6 October 2020)**.

There may be some overlap in rules between the IAWO and the FEDA, in particular for assets purchased after 6 October 2020. Where this is the case the FEDA measures takes priority.

The table over the page, summarises the measures (as they currently stand) for the 2020 income year and onwards. For simplicity we have not included thresholds or eligible requirements prior to the 2020 income year.

IAWO – assets purchased <u>prior to</u> Budget Night	Small Business Entities (SBEs)	Medium Business Entities (MBEs)	Large Business Entities (LBEs)
Aggregated Turnover Threshold[1]	< $10 million	≥ $10m to < $50m	≥ $50m to < $500m
Condition 1a – Acquisition date	31 December 2020	31 December 2020	31 December 2020
Condition 1b – Date first used/ installed and asset threshold[2] • **1 July 2019 to 11 March 2020** • **12 March 2020 to 30 June 2021** ***Note - From Budget Night, where the FEDA and IAWO overlap, the FEDA takes priority**	• < $30,000 • < $150,000	• < $30,000 • < $150,000	• No deduction • < $150,000
Condition 2 – Carrying on a business[3]	Asset located in Australia for the purposes of carrying on a business		
Second hand assets eligibility	Eligible	Eligible	Eligible
Low value pool deductions	Deduct balance of low value pool if the balance is: • Less than $150,000 at 30 June 2020 • More than $0 as at 30 June 2021 and 2022	No deduction	No deduction
Other comments	Businesses which have acquired new assets between 12 March 2020 and 6 October 2020 which do not qualify for the IAWO (i.e. asset cost exceeds threshold or aggregated turnover exceeds $500 million) may wish to consider accelerated depreciation measures which allows a 50% write off in the first year.		

Please note

1. The term aggregated turnover includes group companies located within and outside of Australia. Your global consolidated annual report will be a good starting reference point.
2. The IAWO and FEDA provisions do not apply to certain assets including capital works asset (e.g. buildings and structural improvements), certain primary production assets or assets that have been allocated to a low-value pool or software development pool.
3. A passive entity (e.g. entity holding a rental property) may not qualify as carrying on a business. You should discuss this with your adviser.

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FEDA – assets purchased post 6 October 2020	Small Business Entities and Medium Business Entities (SBEs and MBEs)	Large Business Entities (LBEs)	Significant Business Entities
Aggregated Turnover Threshold [1]	< $50m	≥ $50m to < $5 billion	>$5 billion
Condition 1 - Acquisition date and first used/ installed	From 7:30pm (AEDT) 6 October 2020 to 30 June 2022	From 7:30pm (AEDT) 6 October 2020 to 30 June 2022[4]	Not applicable[6]
Depreciating asset cost[2]	No threshold		
Condition 2 – Carrying on a business[3]	Asset located in Australia for the purposes of carrying on a business		
Second hand assets eligibility	Eligible	No deduction[5]	

Please note

1. The term aggregated turnover includes group companies located within and outside of Australia. Your global consolidated annual report will be a good starting reference point.
2. The IAWO and FEDA provisions do not apply to certain assets including capital works asset (e.g. buildings and structural improvements), certain primary production assets or assets that have been allocated to a low-value pool or software development pool.
3. A passive entity (e.g. entity holding a rental property) may not qualify as carrying on a business. You should discuss this with your adviser.
4. For a LBE, a depreciating asset that starts to be held after the 2020 Budget time is excluded from the FEDA if:
   - the entity entered into a commitment to hold, construct or use the asset before the 2020 Budget time; or
   - the asset is a second hand asset.
5. No immediate expensing under the FEDA. However, LBE can look to utilise the IAWO measures and claim an immediate deduction for the full cost of eligible second-hand assets costing less than $150,000 if they are purchased by 31 December 2020 and installed ready for use by 30 June 2021.
6. On 2 December 2020, the Government introduced legislation (Treasury Laws Amendment (2020 Measures No. 6) Bill 2020) as an alternative basis for entities which may not qualify for FEDA to be able to access the FEDA measures (similar to the measures available for LBEs). To satisfy the new test, companies must have:
   - less than $5 billion in total statutory and ordinary income (excluding non-assessable non-exempt income) in either the 2018-19 or 2019-20 income year; and
   - invested more than $100 million (cumulative) in tangible depreciating assets in the 2016-17 to 2018-19 income years.

   This change will mean businesses with an aggregated turnover of more than $5 billion due to the income of an overseas parent or associate will now be able to qualify provided they meet the additional investment requirements. The announcement is now yet law at the date of this publication

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Things to consider for your business

- If the IAWO measures do not apply for depreciable assets purchased prior to 6 October 2020, can the accelerated depreciation rules apply?
- There may be situations where the IAWO rules provide a better benefit over the FEDA including:
  - where LBE acquires a second-hand asset; or
  - where an entity acquired, or first used or installed ready for use, the asset on or after 12 March 2020 and prior to the Budget time
- What entities (domestically and internationally) may be grouped for the purposes of the 'aggregated turnover' test. This may be more complicated for multinational businesses.
- Are passive entities (e.g. property trusts) considered as 'carrying on a business'?
- Consider reducing PAYG instalments if the entity is considering purchasing significant depreciating assets that may be eligible for a write off under the IAWO or FEDA.
- The FEDA and IAWO are optional. Therefore, it may be worth considering whether incurring the tax deduction in a lump sum would be more beneficial than over time under the normal depreciation rules.
- Can any tax loss created by applying the FEDA and IAWO rules be used or carried forward – or is there is a risk that the loss may be forfeited if loss carry forward tests aren't satisfied?
- Legislation was recently introduced to provide taxpayers further flexibility to apply and allow them the choice to apply the FEDA on an asset-by-asset-basis. At the date of this publication, the legislation allowing the asset-by-asset choice has been passed by both houses and is awaiting Royal Assent (Treasury Laws Amendment (2020 Measures No. 6) Bill 2020).

Get in touch

Contact one of our experts below to learn more about the impacts this may have to your business and how to navigate these changes.

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