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# **Chapter 1**

## ***Enhancing the instant asset write-off***

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### **Outline of chapter**

1.1 Schedule 1 to this Bill amends the income tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

1.2 Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

1.3 These amendments complement the existing instant asset write-off for small and medium sized business entities. They are designed to support business investment over the period from the 2020 announcement time to 30 June 2020.

### **Context of amendments**

#### **Small business entities**

1.4 Division 328 of the ITAA 1997 provides a range of tax concessions for small business entities, including access to simplified depreciation rules (see Subdivision 328-D). Under section 328-110, an entity is generally a small business entity for an income year if the entity carries on a business in that year and either:

- the entity carried on a business in the prior income year and its aggregated turnover was less than a threshold amount; or
- the aggregated turnover of the entity in the current income year is likely to be less than that threshold.

1.5 In the 2015-16 income year, the threshold was \$2 million, while for 2016-17 and later income years it is \$10 million.

1.6 In determining if an entity is a small business entity, the entity is not subject to the carrying on a business requirement if it is winding up a business in an income year, provided that the entity was a small business entity for the most recent income year in which that business was carried on. Similarly, a partner in a partnership is not taken to carry on business in their capacity as a partner when working out if an entity is a small business entity.

1.7 An entity cannot be a small business entity for an income year because of its expected turnover if it has carried on business in the two previous income years and its aggregated turnover for each of those years was \$10 million or more.

### **Accelerated depreciation for small business entities**

1.8 The *Treasury Laws Amendment (Increasing and Extending the Instant Asset Write-Off) Act 2019* amended the tax laws to increase the cost threshold below which small business entities can access the instant asset write-off for depreciating assets and certain related expenditure to:

- \$30,000 for the period from 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 until 30 June 2020; and
- \$25,000 (up from \$20,000) for the period from 29 January 2019 to before 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019.

1.9 This built on earlier amendments to the instant asset write-off which had increased the threshold to \$20,000 and subsequently extended it to later income years.

1.10 Eligible small businesses must place assets which cannot be immediately deducted into the small business simplified depreciation pool and generally depreciate those assets at 15 percent in the first income year and 30 per cent each income year thereafter. The pool balance can also be immediately deducted if it is less than the applicable instant asset write-off threshold at the end of the income year (including existing pools).

1.11 From 1 July 2020, the instant asset write-off is due to revert to \$1,000 and only be available for small business entities.

### **Accelerated depreciation for other entities**

1.12 Entities other than small businesses are generally not able to immediately deduct the costs of acquiring depreciating assets. Instead they can usually only deduct the decline in value of the asset over its effective life, claiming deductions for an income year equal to that decline in value.

1.13 The decline in value is usually determined using methods set out in Division 40 of the ITAA 1997. Division 40 also contains a number of specific rules for particular expenditures and assets that modify this general treatment.

1.14 The *Treasury Laws Amendment (Increasing and Extending the Instant Asset Write-Off) Act 2019* amended the tax law to introduce a special rule enabling entities with an aggregated turnover of \$10 million or more but less than \$50 million (medium sized businesses) to access an instant asset write-off for depreciating assets and certain related expenditure costing less than \$30,000. The amendment applied to assets that were acquired and first used, or installed ready for use, from 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 until 30 June 2020. This was given effect under section 40-82 in Division 40.

## Summary of new law

1.15 Schedule 1 to this Bill amends the tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

1.16 Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more, but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

## Comparison of key features of new law and current law

### Small business entities

1.17 The following table provides a comparison of the key features of the new law and the current law for small business entities.

<i>New law</i>	<i>Current law</i>
<b>Increased deduction for depreciating assets costing less than \$150,000</b>	
<p>Small business entities can claim an immediate deduction for depreciating assets that cost less than <b>\$150,000</b>, provided the asset is first acquired at or after 7.30 pm (by legal time in the Australian Capital Territory) on 12 May 2015, and first used or installed ready for use on or after 12 March 2020, but before 1 July 2020.</p> <p>Depreciating assets that do not meet these timing requirements for the \$150,000, or earlier \$30,000, \$25,000 or \$20,000 thresholds continue to be subject to the \$1,000 threshold.</p>	<p>Small business entities can claim an immediate deduction for depreciating assets that cost less than <b>\$30,000</b>, provided the asset is first acquired at or after 7.30 pm (by legal time in the Australian Capital Territory) on 12 May 2015, and first used or installed ready for use at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019, but before 1 July 2020.</p> <p>Depreciating assets that do not meet these timing requirements for the \$30,000, or earlier \$25,000 or \$20,000 thresholds continue to be subject to the \$1,000 threshold.</p>
<b>Increased deduction for amounts included in the second element of the cost of depreciating assets</b>	
<p>Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets that are first used or installed ready for use in a previous income year. The amount of the cost must be less than <b>\$150,000</b> and the cost must be incurred on or after 12 March 2020, but before 1 July 2020.</p> <p>Costs that are incurred outside of these times and the times when the prior \$30,000, \$25,000 or \$20,000 threshold applied continue to be subject to the \$1,000 threshold.</p>	<p>Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets that are first used or installed ready for use in a previous income year. The amount of the cost must be less than <b>\$30,000</b> and the cost must be incurred at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 but before 1 July 2020.</p> <p>Costs that are incurred outside of these times and the times when the prior \$25,000 or \$20,000 threshold applied continue to be subject to the \$1,000 threshold.</p>
<b>Variation to deduction for low value pools</b>	
<p>For income years that end on or after 12 March 2020 and prior to 1 July 2020, assets that cost <b>\$150,000</b> or more, and costs of <b>\$150,000</b> or more relating to depreciating assets can be allocated to a small business entity's general small business pool and be deducted at a specified rate for the depletion of the pool.</p>	<p>For income years that end at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 and prior to 1 July 2020, assets that cost <b>\$30,000</b> or more, and costs of <b>\$30,000</b> or more relating to depreciating assets can be allocated to a small business entity's general small business pool and be deducted at a specified rate</p>

<i>New law</i>	<i>Current law</i>
<p>Assets and costs allocated to a general small business pool are generally deducted at a rate of 15 per cent in the year they are allocated, and at a rate of 30 per cent in subsequent income years.</p> <p>If the balance of a small business entity's general small business pool is less than <b>\$150,000</b> at the end of an income year that ends on or after 12 March 2020 but before 1 July 2020, the small business entity can claim a deduction for the entire balance of the pool.</p> <p>If the balance of a small business entity's general small business pool is less than \$1,000 at the end of an income year that ends after 30 June 2020, the small business entity can claim a deduction for the entire balance of the pool.</p>	<p>for the depletion of the pool.</p> <p>Assets and costs allocated to a general small business pool are deducted at a rate of 15 per cent in the year they are allocated, and at a rate of 30 per cent in subsequent income years.</p> <p>If the balance of a small business entity's general small business pool is less than <b>\$30,000</b> at the end of an income year that ends on or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 but before 1 July 2020, the small business entity can claim a deduction for the entire balance of the pool.</p> <p>If the balance of a small business entity's general small business pool is less than \$1,000 at the end of an income year that ends after 30 June 2020, the small business entity can claim a deduction for the entire balance of the pool.</p>

## Entities other than small businesses

1.18 The following table provides a comparison of the key features of new law and the current law for entities other than small businesses.

<i>New law</i>	<i>Current law</i>
<b>Increased immediate deduction for depreciating assets costing less than \$150,000 for an expanded range of eligible entities</b>	
<p>Medium sized business entities (broadly entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than <b>\$500 million</b> for that income year) can immediately deduct the cost of an asset in an income year if the asset:</p> <ul style="list-style-type: none"> <li>• has a cost of less than \$150,000; and</li> <li>• was first used or installed ready for use for a taxable purpose on or after 12 March 2020 and on or before 30 June 2020.</li> </ul> <p>For medium sized business entities that have an aggregated turnover of \$10 million or more but less than \$50 million that have depreciating assets that do not meet the timing requirements for the \$150,000 threshold, the earlier \$30,000 threshold continues to apply prior to 12 March 2020.</p>	<p>Medium sized business entities (broadly entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than <b>\$50 million</b> for that income year) can immediately deduct the decline in value of the cost of an asset in an income year if the asset:</p> <ul style="list-style-type: none"> <li>• has a cost of less than \$30,000; and</li> <li>• was first acquired and first used or installed ready for use for a taxable purpose on or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 and on or before 30 June 2020.</li> </ul>
<b>Increased deduction for amounts included in the second element of the cost of depreciating assets for an expanded range of eligible entities</b>	
<p>Medium sized business entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than <b>\$500 million</b> can claim a deduction for an amount included in the second element of the cost of depreciating assets. The amount of the cost must be less than <b>\$150,000</b> and it must be the first such amount included after the income year in which the asset was first used or installed ready for use. The cost must be incurred on or after 12 March 2020 but before</p>	<p>Medium sized business entities that carry on business in an income year and have an aggregated turnover of \$10 million or more, but less than <b>\$50 million</b> can claim a deduction for an amount included in the second element of the cost of depreciating assets. The amount of the cost must be less than <b>\$30,000</b> and it must be the first such amount included after the income year in which the asset was first used or installed ready for use. The cost must be incurred on or after 2 April 2019 but before</p>

<i>New law</i>	<i>Current law</i>
<p>1 July 2020.</p> <p>These amendments only apply to amounts included in the second element of cost on or after 12 March 2020 and before 1 July 2020.</p> <p>For assets first used or installed ready for use or amounts expended before that time, prior asset thresholds and eligibility rules apply.</p>	<p>1 July 2020.</p>

## **Detailed explanation of new law**

### **Increasing the cost of assets that can be immediately deducted by small business entities**

1.19 Schedule 1 amends the ITAA 1997 to increase the temporary threshold below which a small business entity, that has elected to use the small business entity capital allowance rules in Subdivision 328-D for an income year can immediately deduct or ‘write-off’ the taxable purpose proportion of the adjustable value of an asset (the instant asset write-off threshold).

1.20 As a result of the amendments, the threshold is increased from \$30,000 to \$150,000 for assets that are first used or installed ready for use during the period commencing on 12 March 2020 and ending on 30 June 2020. *[Schedule 1, items 16 to 17, subparagraphs 328-180(4)(c)(i) and (ii), and subsection 328-180(4) of the ITTP Act 1997]*

#### ***Deductions for amounts included in the second element of cost base***

1.21 As part of the changes to the instant asset write-off threshold, the amendments also increase from \$30,000 to \$150,000 the threshold below which amounts that are included in the second element of an asset’s cost (effectively subsequent capital expenditure relating to that asset) can be immediately deducted, where the cost of the related asset was subject to the instant asset write-off in an earlier year. This increase applies to amounts included in the second element of the asset’s cost during the period commencing on 12 March 2020 and ending on 30 June 2020. *[Schedule 1, items 18 and 19, subparagraph 328-180(5)(c)(ii) and subsection 328-180(5) of the ITTP Act 1997]*

#### ***Deductions for low pool values***

1.22 The amendments also increase the threshold below which an entity can immediately deduct the balance of its general small business pool at the end of an income year from \$30,000 to \$150,000. The increased threshold applies to income years that end on or after

12 March 2020, but before 1 July 2020. *[Schedule 1, items 20 and 21, subparagraph 328-180(6)(c)(ii) and subsection 328-180(6) of the ITTP 1997]*

## **Expanding immediate deductions for entities other than small businesses entities**

1.23 Schedule 1 also amends the ITAA 1997 to:

- increase to \$150,000 (from \$30,000) the cost threshold for an immediate deduction under section 40-82 to be available for eligible depreciating assets;
- increase to \$150,000 (from \$30,000) the cost threshold for an immediate deduction under section 40-82 to be available for eligible amounts included in the second element of a depreciating asset's cost in a later year (ending before 1 July 2020); and
- revise the eligibility requirement for entities to be eligible to immediately deduct the cost of assets and related capital expenditure under section 40-82 so that entities are eligible if the entity would be a small business entity if the aggregated turnover threshold for such entities was \$500 million.

*[Schedule 1, items 3, 5 and 6, paragraph 40-82(1)(d) and (3)(b), and subsections 40-82(4A) and (4B) of the ITAA 1997]*

1.24 These amendments only apply to assets first used or installed ready for use, and amounts included in the second element of cost, on or after 12 March 2020 and before 1 July 2020. For assets first used or installed ready for use or amounts expended before that time, prior asset threshold and eligibility rules apply. *[Schedule 1, items 3 and 5, paragraph 40-82(1)(d) and paragraph 40-82(3)(b) of the ITAA 1997]*

1.25 The effect of these changes is designed to support business investment by significantly expanding access to the instant asset write-off for eligible businesses that have a turnover of less than \$500 million (up from \$50 million) and to significantly increase the instant asset write-off to \$150,000 (up from \$30,000) until 30 June 2020.

## **Consequential amendments**

1.26 Schedule 1 to this Bill makes amendments that include and update notes and other guidance materials to reflect the substantive changes made by the amendments. *[Schedule 1, items 7 to 14, the notes to subsection 40-425(7A), paragraphs 328-180(1)(b), 328-180(2)(a), 328-180(3)(a), subsections 328-210(1), 328-250(1), 328-250(4), 328-253(4) of the ITAA 1997]*



1.27 Schedule 2 to this Bill makes a consequential amendment to the income tax consolidation rules to address integrity issues. Details of this amendment are available in Chapter 2 of this explanatory memorandum.

## **Application and transitional provisions**

1.28 These amendments in Schedule 1 to this Bill apply on and after 12 March 2020.