finnegan partners

May 2026

Budget musings:

Changes to negative gearing, the CGT discount on the cards

Even before the current war in the Middle East, the Budget has clearly been under some pressure. Recent comments from various government sources suggest that changes to the tax rules around investment properties could be under serious consideration.

So, what sort of changes could we see on 12th May? And how might they affect you?

About this newsletter

Welcome to the Finnegan Partners client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. For further information on any of the topics covered, please contact us via the details below.

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While there has been a lot of focus on the 50% CGT discount, there is also a push to restrict negative gearing – ie, the ability to offset rental losses against other income, such a salary and wages. Most other countries don't permit this.

The 50% discount

Arguments have been advanced that the 50% discount is too generous, especially for assets that have not been held for a long time, and there are calls for reducing the discount to $33\frac{1}{3}$ % or even 25%.

continued overleaf ⇨

Budget musings ... cont

Another idea is to have a staggered discount, depending on how long the asset has been held. There have also been calls to extend the existing 12 month holding period before a capital gain can qualify for the discount to, say, 18 months or 24 months.

Negative gearing

On the negative gearing issue, reform ideas range from quarantining losses altogether and offsetting them against future rental profits or against the CGT gain that arises when the property is sold to limiting negative gearing to two properties per taxpayer or to some dollar amount.

All assets or just residential property?

While many people view housing as special, the government may consider whether to apply any changes to assets more broadly, including commercial property, shares and the like.

Date of effect

If any changes made only apply to assets acquired by a taxpayer after the Budget date, then any significant revenue gains would be a long way off.

But Australians generally don't like retrospective tax changes and the way these things have generally been handled is to make any adverse tax changes operate prospectively. After all, people have invested under the rules which existed at the time.

Applying any changes to the CGT discount or negative gearing to existing assets would be a courageous decision (in a "Yes Minister" sense), and one that the Opposition parties would relish.

WHAT SHOULD YOU DO NOW?

Anyone who owns an investment property or is considering buying or selling one should probably sit back and wait for the Budget to land. There may be nothing of any consequence in it after all, but if there is you're welcome to come and speak to us about how you are affected and what your options are.

Fuel response payment plan

Following a government media release on the same day, the ATO on 1 April 2026 announced that eligible taxpayers who are experiencing difficulties in paying their tax debts due to recent high fuel prices can apply to the ATO for a temporary fuel response payment plan.

An eligible taxpayer can apply for the ATO's fuel response payment plan which has the following features:

» no upfront payment;

» a 3-year payment plan period of 36 equal monthly instalments;

» the ATO will make a decision to remit any General Interest Charge that has accrued from the time of the application to the date of the third monthly instalment, provided the taxpayer has:

- paid all instalments agreed under the payment plan for 3 months; and
- brought any outstanding lodgements up to date in that period.

A taxpayer is eligible to apply if they are an ABN holder who meets all of the following four criteria:

» They have experienced an increase in business operating costs, and these costs are either directly attributable to higher fuel costs, or indirectly attributable to high fuel costs because of increased transport, logistics or other supply chain costs.

» They have a new tax debt or are unable to service an existing tax debt.

» They can demonstrate a reduced capacity to pay due to the high fuel prices. This is separate from a general downturn in business or ordinary cash flow issues. It means that if fuel prices had not been so high, the taxpayer anticipates they would have been able to meet their payment obligations, including their instalments under existing payment plans.

» Their lodgements are up to date within three months of the payment plan being put in place. The ATO may cancel the payment plan if lodgements are not up to date within this period. Up-to-date lodgements are also required for the ATO to make a decision to remit GIC under the fuel response payment plans.

The plan is available by application until 30 June 2026.

If you're experiencing financial difficulties because of the spike in fuel prices due to the Middle East conflict, even indirectly, you may be able to benefit from the ATO's fuel response payment plan. It may only be a deferral, but it could make a difference in these difficult times.

And if you're not sure whether you're eligible, or you need help in making an application, please don't hesitate to contact us.

CGT relief if an asset is lost or accidentally destroyed

The capital gains tax (CGT) rules provide a lot of important concessions where a capital gain arises in unusual or unexpected circumstances.

One such concession is the rollover where a CGT asset (or part of one) is lost or accidentally destroyed.

This typically occurs where a natural disaster occurs (eg flood, fire, cyclone etc) which results in the destruction of an asset - such as an investment property, a commercial building etc. And, importantly, this includes the partial destruction of an asset (eg where a roof on an investment property or a commercial building is destroyed and has to be replaced)

The rollover may also occur where a CGT asset is stolen or where it is lost due to fraud. (But note that the ATO now takes the view that roll-over no longer applies where a broker accidentally sells your shares on your behalf.)

Under CGT principles these type of "destruction or loss" scenarios can give rise to an assessable capital gain because, in effect, the ownership of the asset has changed – even though this occurs accidentally or in circumstances outside the taxpayer's control.

And this where the CGT rollover for "where an asset is lost or accidentally destroyed" steps in.

But, suffice to say, there are several key conditions to be met before the rollover can apply.

And the main one of these is that money (eg insurance or other indemnity) or a replacement asset is received in compensation for the loss or destruction of the asset. Importantly, in the case of money this must be applied in acquiring a replacement asset within a certain time period.

In this case, the capital gain that you would otherwise would have made as a result of the loss or destruction is disregarded – and the replacement asset you acquired is deemed to have the same cost for CGT purposes as the original asset.

However, there are important rules to be aware of where you receive money as compensation and you spend only some of it (or more than it) in acquiring a replacement asset. And this can give rise to an immediate capital gain or other CGT adjustments

These rules are messy and require the advice of an expert.

In the event, that the original asset was acquired pre-CGT (ie before the CGT regime was introduced) then any replacement asset will be taken to have been acquired pre-CGT also provided the cost of replacement asset is within certain thresholds or the replacement asset is substantially the same as the original asset.

Suffice to say the rules for qualifying for the rollover in the first place and their exact effect will depend on individual circumstances.

Moreover, they can be quite complex – depending on the circumstances – and require the advice of an expert.

So, if you find yourself in this situation make an appointment and come and speak to us as soon as possible so all the right steps can be undertaken to obtain this important CGT relief.

CGT and options – when is the asset acquired?

There was a recent case before the Federal Court which had to deal with the issue of when is an asset acquired for CGT purposes when an option is exercised to acquire it.

Is it at the time the option agreement is entered into or is it when the option is exercised?

And it is an important issue for the person who acquires the asset.

For example, it may affect their ability to use the 50% discount on a subsequent sale of the asset which requires a 12 month holding period - or it may trigger the rule that prevents the discount from being used if an agreement to sell an asset is entered into within 12 months of acquiring it.

It is also an important issue for the person who sells the asset when the option is exercised – and for similar reasons.

In that Court case, the Court confirmed the Commissioner's views that the time of disposal is when the subsequent contract to sell the asset is entered into following the exercise of the option – and not when the option agreement itself is entered into.

So, if for example you enter into an option agreement to buy land on 1 April 2026 and then exercise that option 6 months later on 1 September 2026, then you will be considered to have acquired the land when you exchange the written contracts drawn up to effect that sale.

And this is all because the CGT rules generally say that an asset is acquired when the contract for its sale or disposal is entered into (or if no contract, when the change of ownership occurs).

Of course, this result may have adverse consequences for the acquirer (as suggested above).

However, all may not be lost.

This is because there is High Court authority* that says that an option agreement is itself a "conditional contract" and that when the option is exercised this condition is met. And therefore, the relevant contract is the option agreement not any later sale contract entered into

Therefore, for CGT purposes it is arguable that the relevant contract for the sale or disposal of the asset is the original option agreement itself.

However, this goes against the ATO's stated position (and also some tribunal cases).

So, if you have entered into an option agreement to buy or sell an asset, or are intending to do so, you should come and speak to us first.

* Laybutt v Amoco Australia Pty Ltd [1974] HCA 49

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

THE WORK TEST: Claiming a tax deduction for super contributions after 67

If you've turned 67 and want to top up your super and claim a tax deduction for doing so, there's one extra hurdle to clear: the work test. It's a simple requirement, but it catches people out, so it's worth understanding when it applies and how to meet it.

What the work test is

The work test requires you to be gainfully employed for at least 40 hours in any 30 consecutive day period during the financial year you make the contribution. "Gainfully employed" means working for payment or reward as an employee or self-employed, in a business, trade or profession. Unpaid work, including volunteering, doesn't count.

The 40 hours needs to be completed over a 30-day window in the financial year. You only need to meet it once in the year.

When it applies

Since 1 July 2022, the work test no longer applies to non-concessional contributions. However, the test still applies if you're aged 67 to 74 and want to claim a tax deduction for a personal contribution. It's the gateway to turning a personal contribution into a concessional (tax-deductible) one. Once you turn 75, you generally can't make personal contributions, except for Downsizer contributions, so deductible contributions are not ordinarily available from 75. However, there is a small window which allows personal contributions received within 28 days after the end of the month you turn 75 to be accepted.

Who checks it?

Your super fund used to ask for a work test declaration before accepting your contribution. Now, the ATO checks at the time you lodge your tax return and claim the deduction. The responsibility sits with you to keep evidence of having met the test. For example payslips, invoices, or a record of self-employed work and hours.

The work test exemption

If you're recently retired and didn't work in the year you made the contribution, you may still claim a deduction using the one-off work test exemption. You must:

- have met the work test in the previous financial year
- have had a total super balance under $300,000 at the end of the previous financial year, and
- not have used the exemption before.

It's a once-only opportunity, designed to give recent retirees a final chance to make a deductible contribution.

Claiming the deduction

Meeting the work test is only one step. To claim the deduction, you must make the contribution into your super fund and

- Lodge a "notice of intent to claim a deduction" with your fund, and
- Receive an acknowledgment from the fund before lodging your tax return.

Without that acknowledgment, the deduction can't be claimed, even if you met the work test. The deduction also can't create a tax loss, so size the contribution against your taxable income.

The bottom line

If you're between 67 and 74 and planning a personal deductible super contribution, remember the work test. Forty hours of paid work in a 30-day window. Speak to us if you're unsure whether your situation qualifies.

30 June 2026
Tax and Super Checklist

With the end of the financial year coming up, now's a great time to get on top of your tax and super. A little planning before 30 June can help you make the most of any opportunities to reduce tax, boost your super, and avoid last-minute surprises.

This checklist outlines key things to consider and action before the financial year wraps up. It's a simple way to stay on track and finish the year with confidence.

TAX CHECKLIST

Here are some practical things to consider before 30 June to help you tidy up your tax position and potentially reduce your bill.

Bad Debts

If you're running a business, write off any bad debts that won't be recovered before 30 June so they can be claimed.

Employee Bonuses and Director Fees

Planning to pay employee bonuses or director fees? Make sure they're confirmed in writing and communicated to recipients by 30 June, even if payment happens later.

Charitable Donations

Bring forward any planned donations and have the highest-earning family member make the gift. Remember:

» Donations must be to registered charities.

» They can't create a tax loss.

» Keep receipts.

Prepay Interest on Loans

If you have a loan for an income-generating asset (like an investment property), consider prepaying interest before 30 June to bring forward the deduction.

Claim Work-Related or Business Costs

Bring forward costs such as repairs, stationery, or supplies by 30 June 2026. These small deductions can add up. This applies to all taxpayers, not just businesses.

Prepay Expenses

You can claim prepaid expenses, such as insurance or subscriptions.

Where the expense is:

» Under $1,000 – all taxpayers can claim the expense

» Over $1,000 – fully deductible if you're a small business if the expense relates to a period of 12 months or less. Note that this is also available if it's a non-business expense of individuals, such as work related expenses or rental property costs.

Write Off Old Stock

If you hold stock, write off any damaged, outdated or unsellable items before 30 June 2026.

Review Assets & Depreciation

Small businesses (turnover under $10m) can immediately deduct assets under $20,000 that were acquired from 1 July 2025 and ready to use by 30 June 2026.

Also, remove any old equipment from your depreciation schedule if it's been sold, thrown out, or is no longer usable.

Electric Vehicles

If your business provides an electric vehicle to an employee, you may be eligible for depreciation deductions and Fringe Benefits Tax (FBT) concessions.

Defer Income

If possible, delay receiving income (like issuing invoices) until after 30 June to push tax into next year.

Offset Capital Gains

Selling an asset this year with a profit? You could crystallise capital losses before 30 June to offset that gain.

Watch out: 'wash sales' (selling and rebuying the same asset just to get a loss) are not allowed.

Personal Services Income (PSI)

If you're working in your own name (like a contractor or freelancer), check that your income qualifies as a business under PSI rules.

Business Losses

If your business runs at a loss, you may not be able to claim that loss if you carry on a "non-commercial business" - unless you pass one of the ATO's tests (eg, income, asset, or profit test).

Company Loans to Shareholders (Division 7A)

If you've borrowed from your company, the loan needs to be properly documented, put on commercial terms and repaid.

If repaying through dividends, make sure the dividends are legally declared and paid prior to 1 July (with appropriate documentation in place).

Trust Distributions

If you're a trustee, resolutions must be made before 30 June to properly distribute income to beneficiaries. You also need to let your beneficiaries know what they're entitled to.

Beneficiary TFN Reporting

If new beneficiaries gave you their TFN between April -June, you must lodge a TFN report by 31 July 2026.

Motor Vehicle Logbook

Planning to claim car expenses using the logbook method? Start now and track 12 weeks of usage (can span over two tax years). Also record your odometer readings and remember to fill out the logbook at the end of each business journey.

Private Health Insurance

Make sure you have the right level of cover to avoid the Medicare Levy Surcharge, especially if your family situation has changed (eg. new baby, separation, adult children moving off your policy).

Check Your Insurance Cover

Review your personal and business insurance needs. Not only does this provide peace of mind, some policies may also be tax deductible, especially if prepaid.

Review Your Business Structure

Is your current setup still the right one? Changes in income, family, or risk levels may mean a trust, company, or restructure could be more effective. We can help you weigh up your options.

⇨ *TIP*

Unused limits for 2020–21 expire after 30 June 2026 so don't miss out.

SUPER CHECKLIST

Make the most of your super before 30 June 2026 with these smart, simple tips.

Check Your Contribution Limits

Before adding more to super, log in to *myGov › ATO › Super › Information* to check how much you've already contributed.

Tip: If you're in an SMSF, your info may not be up to date in myGov but we can help you work this out.

Add to Super and Claim a Tax Deduction

You may be able to make a personal deductible contribution and claim it at tax time.

To be eligible:

- You must be over 18
- If you're 67–74, you must meet the work test or qualify for a work test exemption
- If you're over 75, you must contribute within 28 days of your birthday month

Don't forget: To claim a tax deduction, submit a Notice of Intent to Claim a Deduction to your super fund and get their confirmation before lodging your tax return or making withdrawals, rollovers, or starting a pension.

Use Up Unused Contribution Limits

Haven't used your full concessional contribution cap in recent years? You may be able to catch up using the carry-forward rule if your total super balance is under $500,000 on 30 June 2025.

Split Contributions with Your Spouse

You can split up to 85% of your 2024–25 concessional (pre-tax) contributions with your spouse before 1 July 2026.

This is a great way to even out your balances and plan ahead for retirement.

Note – To use this strategy, your spouse must be under their preservation age or aged 64 or younger and not retired when you make the request to your fund.

Get a Tax Offset for Spouse Contributions

If your spouse earns less than $40,000, consider making an after-tax contribution to their super.

By doing so, you could get up to a $540 tax offset while boosting their retirement savings.

Grab a Government Co-Contribution

If you earn less than $60,400 and at least 10% comes from work or running a business, you could be eligible for a government co-contribution. All you need to do is add up to $1,000 to your super and the government may add up to $500 extra.

Avoid the Division 293 Tax Trap

If your income (plus employer contributions) is over $250,000, you may pay an extra 15% tax on some of your super contributions.

Strategies like bringing forward expenses or deferring income may help keep you below the threshold.

Maximise Non-Concessional (After-Tax) Contributions

If you're under 75, you may be able to contribute up to $360,000 in one year using the bring-forward rule.

New rules from 1 July 2026 may allow you to contribute even more – speak with us about getting the timing right.

Take Your Minimum Pension Payment

If you're drawing a pension from your super, make sure you take the minimum amount by 30 June. Missing the minimum may affect your fund's tax benefits for the whole year.

Age	Minimum pension
Under 65	4%
65-74	5%
75-79	6%
80-84	7%
85-89	9%
90-94	11%
95 or more	14%

Need Help?

We're here to help you make the most of EOFY tax and super opportunities. Contact us to discuss what options might work best for your situation.