

Article Information

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Service: Corporate & Commercial, Taxation
Sector: Corporate & Commercial, Financial Services

Tax reform update - Government's post-Budget carve-outs and the new start-up CGT concession

On 18 June 2026, the Government announced further implementation details for its tax reform package following what it described as “an intensive first round of post-Budget consultation”. This is the third in our series of insights on the 2026 tax reform measures (see our earlier articles, [2026 Budget - What businesses and investors should know](#) and [Unit Trusts after the Federal Budget](#), for full background on the original proposals).

The announcements are framed as providing more clarity and confidence for investors, more support for small business, and more incentives for innovation while also retaining the original intent of the policies.

The capital gains tax (CGT) measures, as announced in the Budget, are currently before the Senate in the *Treasury Laws Amendment (Tax Reform No 1) Bill 2026* (No 1 Reform Bill). The No 1 Reform Bill together with the imposition bill, will be debated by the Senate in their sitting this week following the report from the Senate Economic Committee (SEC) handed down on Friday 19 June (SEC Report). We note that the SEC Report recommended the No 1 Reform Bill be passed by the Senate and in making its recommendation noted that the announcements made by the Government on 18 June address some of the issues explored during the SEC's inquiry. It is noted that the Coalition Senators did not endorse the findings in the SEC Report, providing a Dissenting Report with 8 separate recommendations, including removing the negative gearing and CGT changes from the No 1 Reform to allow for a longer consultation period on the proposed measures. Subject to the outcomes of the Senate debate this week Government intends to move amendments to the No 1 Reform Bill in the next sitting fortnight.

In this insight, we examine the revisions to the Budget measures announced by the Government on 18 June 2026.

As with our earlier insights, we emphasise that these remain proposals and are subject to consultation and exposure draft legislation. Final design may differ from what is outlined below.

Expanded small business CGT concession

50% active asset reduction threshold lifted from \$2 million to \$10 million

The turnover threshold for the existing small business CGT 50% active asset reduction will be increased from \$2 million to \$10 million, aligning eligibility with the instant asset write-off turnover threshold. This is the only change to the small business CGT concessions as a result of the announcement last week, with the other three small business CGT concessions retained in their current form.

Practical implications: It is acknowledged, and not understated, that the proposed change may provide a positive reprieve and significant impact to a material number of small businesses, including those founders who have invested considerable time, effort and energy into building their businesses (through the colloquial phrase “sweat equity”) and have nominal cost base. However, the question that remains is whether this proposed change is enough when there are some business sectors such as technology, energy & resources and some high turnover/low profit sectors, that may find themselves above the \$10 million threshold quite early on, but with low profitability levels due to the long timeframes required to make projects commercially viable. We, alongside many businesses operating in these sectors, continue to wait with bated breath as to whether the final measures will provide any further concession for businesses operating in these sectors.

New Innovative Business CGT Concession (IBCC)

A new 50% CGT discount for early-stage investors in innovative start-ups proposed

The IBCC would provide a 50% CGT discount to early-stage investors including founders and participants in employee share schemes in innovative start-up businesses. This would be available in addition to existing start-up concessions announced in the Budget including the two-year loss carry back, loss refundability for start-ups and expanded venture capital incentives.

Key design features proposed

Eligible investors (individuals, partnerships and trusts holding eligible start-up shares) will have a choice to calculate CGT liability between:

- a 50% discount (without the minimum 30% tax) (discount method); or
- cost base indexation with the minimum 30% tax, for gains accrued from 1 July 2027.

The discount method would be available for gains on shares that meet the following criteria:

1. shares issued from 1 July 2027 by an unlisted and independent company
2. the company must be under 10 years old (or under 15 years in certain circumstances, e.g. biotech and medtech start-ups that take longer to commercialise)
3. company turnover must be under \$50 million
4. the company must be an active, innovative start-up meeting principles-based innovation criteria
5. shares must be held for at least 5 years before sale

A lifetime cap of \$10 million in gains per individual (before the discount is applied), providing a maximum lifetime benefit of \$2.4 million.

Practical implications: There is no understating that this measure would bridge the gap between the small business CGT active asset concession and those businesses that are still in their infancy but have exceeded the \$10 million turnover threshold. However, the practical reach of this incentive, while well intentioned, may ultimately be constrained by the final definition of 'innovative' for the purposes of the IBCC. Certain start-ups may exceed the \$10 million turnover threshold for the small business CGT active asset concession yet operate in sectors not traditionally regarded as 'innovative', such as resources or manufacturing. It remains unclear whether such business activities will continue to be excluded under the IBCC's innovation criteria and, if so, whether these more traditional sectors risk being inadvertently overlooked from the Government carve-outs.

Testamentary trusts - broadened exemption

Testamentary trusts exempt from the 30% minimum tax on trust distributions

All types of testamentary trusts will be exempt from the proposed 30% minimum tax on trust distributions which is proposed to commence 1 July 2028. Previously the exemption for testamentary trusts was limited to those that were in existence at budget night.

The exemption is now reserved for trusts established for genuine testamentary purposes and limited to income generated from assets of the deceased estate. For discretionary testamentary trusts established on or after 1 July 2028, the exclusion is limited to trusts that can only benefit individuals and income tax exempt entities.

A consultation paper on implementation of the minimum tax on discretionary trusts is expected to be released in coming weeks.

Practical implications: This is a welcome revision for estate planners and their clients. The broadened exemption means that testamentary trusts established for genuine testamentary purposes, including those yet to be established, remain outside the minimum tax net for income derived from deceased estate assets. However, advisors should be aware that, when assisting clients with their succession planning, a limitation will continue to apply to testamentary trusts established from 1 July 2028, under which eligible beneficiaries are restricted to individuals and tax-exempt entities.

Looking ahead

These announcements represent meaningful adjustments to the original Budget proposals, responding to early industry, professional and political feedback. Beyond the fringes, however, they do not change the fundamental architecture of the reforms. Cost base indexation replacing the 50% discount from 1 July 2027, the 30% minimum tax on real capital gains, the

minimum tax on discretionary trust distributions from 1 July 2028, and the restriction of negative gearing to new builds.

We expect further detail to emerge as the Senate debates the No 1 Reform Bill this week, the Government moves its amendments, and as consultation papers on the IBCC and the discretionary trust minimum tax are finalised.

We will continue to monitor developments and provide updates as the legislation progresses. In the meantime, please reach out if you would like to discuss how any of these proposals may impact you or your business.

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