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2010 Federal Budget Report

[With special comments by Reuters News]

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EXECUTIVE SUMMARY

[731] 2010-11 Federal Budget: $40.8bn deficit, but room for tax measures

On 11 May 2010, the Treasurer Mr Swan handed down the 2010-11 Federal Budget, his third Budget.
In looking to set a Budget to take the Government to the next election, a brighter economic outlook appears to have delivered the funding for a range of tax sweeteners. While still essentially a "no frills" Budget, the Government has announced a 50% tax savings discount on up to $1,000 of interest earned by individuals and a standard $500 deduction for work-related expenses.

Improving economic outlook

The Treasurer has announced a forecast deficit for 2010-11 of $40.8bn (2.9% of GDP). This is $5.9bn less than the forecast in the Mid-Year Economic and Fiscal Outlook, and $16.3bn less than that expected 1 year ago.

Despite global economic volatility and uncertainty, the economy is now expected to rebound powerfully from the recent downturn, with forecast real GDP growth of 3.25% in 2010-11 and 4% in 2011-12. This time last year the economy was expected to enter a recession, with GDP forecast to contract by 0.5% in 2009-10. Fast forward 1 year, and the economy grew by 1.4% during 2009 and GDP is now forecast to grow by around 2%. This is also expected to return the Budget to a small surplus in 2012-13, with lower budget deficits forecast in earlier years.

However, caution as to achieving that surplus relies on the successful introduction of the proposed Resource Super Profits Tax, according to the Institute's Tax Counsel, Mr El-Ansary.

"The Henry Tax Review recommended the introduction of a new resource rent tax in conjunction with a reduction to the corporate tax rate to 25%, and the abolition of royalties. Unfortunately, the government chose not to adopt the whole of that carefully considered policy," Mr El-Ansary said.

Net debt is also now expected to peak lower and earlier than previously expected at 6.1% of GDP in 2011-12. As private sector activity builds momentum, the Treasurer said the Government is withdrawing fiscal stimulus, as planned.

This withdrawal of stimulus is expected to subtract 1 percentage point from growth in 2010 and a further 0.75 of a percentage point in 2001.

See also para [732] of this Bulletin for further details and analysis of the economic side of the Budget, including expert comments from our colleagues at Reuters News.

Revenue measures announced

The major revenue measures proposed in the Budget included:

- 50% tax savings discount - from 1 July 2011, the Government will provide a 50% tax discount on up to $1,000 of interest earned by individuals (including interest income earned indirectly via a trust or managed investment scheme);
- standard deduction for work-related expenses - individual taxpayers will get a standard deduction of $500 for work-related expenses and the cost of managing tax affairs from 1 July 2012 (increasing to $1,000 from 1 July 2013);
- personal tax rates - no change to already legislated cuts to the individual tax rates for 2010-11;
- Medicare levy low-income thresholds - from 1 July 2009, increased for singles to $18,488 ($31,196 for members of a family);
- SATO rebate - calculation of the rebate threshold for the senior Australians tax offset (SATO) will be amended to correctly factor in the effect of the low income tax offset;
- medical expenses rebate threshold - will increase from $1,500 to $2,000 from 1 July 2010;
- public ancillary funds - new regulatory framework to be introduced from 1 July 2011;

- First Home Savers Accounts - proposal to allow savings in an FHSA to be paid into an approved mortgage after the end of a minimum qualifying period;
- earnout arrangements - all payments under a qualifying earnout arrangement will be treated as relating to the underlying business asset.
- CGT demerger relief extended - CGT demerger provisions to be amended to allow another member of a demerger group to qualify as the head entity of the group where the existing head entity cannot demerge its interests in the demerger group, effective for CGT events happening after 7:30pm on 11 May 2010;
- CGT: share sale facility - legislation to be enacted to allow Australian interest holders to utilise a broader range of CGT rollovers where an entity restructures using a share or interest sale facility for foreign interest holders, effective for CGT events happening after 7:30pm on 11 May 2010;
- consolidated groups - rules relating to the calculation and collection of income tax liabilities from consolidated groups and MEC groups to be amended to allow an entity in a tax sharing agreement to leave a consolidated group or MEC group clear of any future income tax liabilities relating to the group;
- Running Balance Accounts - Government to increase flexibility in managing running balance accounts and provide for interest to be paid to taxpayers if an overpayment arises because of an amended franking deficit tax assessment;
- reforms to the GST financial supply provisions - the Government will amend the provisions to clarify the operation of the legislation and reduce compliance and administrative costs;
- reforms to the margin scheme - the Government has proposed to restructure the margin scheme provisions to give prominence to the main principles with exceptions set out separately and insert objects clauses for the key provisions so that the intention is clear;
- revamp to the GST-treatment of Australian taxes, fees and charges - the Government will replace Div 81 with a principles-based legislation exemption in relation to Australian taxes, fees and charges;
- export of boats used for recreational purposes - the Government announced that a supply of a boat used for recreational purposes to be GST-free if the boat is exported by a purchaser (from Australia) within 12 months and only used for recreational purposes whilst in Australia;
- increase funding for ATO - the Tax Office will receive $337.5m over 4 years to fund additional activities that will promote voluntary GST compliance and will provide a level playing field for Australian businesses. The funding will also assist the Tax Office in addressing issues relating to fraudulent GST refunds, systematic under-reporting of GST liabilities, non-lodgment of GST returns and non-payment of GST debts;
- revise date for commencement of Board of Taxation's recommendations - the Government has stated that it will revise the commencement date for some of the recommendations in the Board of Taxation's review of the legal framework for the administration of the GST to 1 July 2011;
- implement of changes to cross-border transactions - the Government has accepted all the recommendations of the Board of Taxation from its Review of the application of GST to cross-border transactions and will impact them with effect from 1 July 2012;
- capital protected borrowings - benchmark interest rate to be adjusted for capital protected borrowings entered into from 7:30 pm (AEST) 13 May 2008;
- interest withholding tax - to be phased down for financial institutions;
- managed investment trusts - definition of MIT to be amended for withholding tax purposes to include certain wholesale managed investment schemes and certain widely held pooled superannuation trusts;
- film tax offsets - proposed changes to the eligibility requirements for film tax offsets effective from 1 July 2010;
- cash economy - increased Tax Office funding to address small business operators who use cash transactions to avoid tax;
- CGT rollover for Indigenous incorporated bodies - CGT rollover provisions to be extended to allow Indigenous incorporated bodies to convert to a company under the Corporations (Aboriginal and Torres Strait Islander) Act 2006;
- super co-contributions - Government to permanently set the matching rate for the superannuation co-contribution at 100% and freeze the eligibility income thresholds for 2010-11 and 2011-12;
- terminal medical condition benefits - range of benefits that are deductible by complying superannuation funds to be extended to include terminal medical condition (TMC) benefits;
- minor super amendments - Commissioner to be able to exercise discretion for the purposes of excess contributions tax before an assessment is issued and time limit to be increased for deductible employer contributions made for former employees;
- Family Tax Benefit (FTB) - various amendments proposed; and
- Child Care Rebate - annual Child Care Rebate to be capped.

More information on the tax and related announcements is also contained in a number of press releases - see the Treasurer's Website (www.treasurer.gov.au) and the Assistant Treasurer's Website.(http://assistant.treasurer.gov.au)

Govt response to Henry Report

The 2010 Budget follows hot on the heels of the Government's initial response to the Henry Tax Report released on 2 May 2010: see 2010 WTB 18 [679]. The Government's initial response to the 138 recommendations in the Henry Report focused primarily on the resources sector, superannuation, a reduction in the company tax rate and some benefits for small business.

The Budget Papers contain various references to these previously announced Government measures in response to the Henry Report, including:

- a Resource Super Profits Tax that will tax non-renewable resource projects (at a rate of 40%) on their profits rather than just their production (taxpayers will be eligible for a credit for royalties paid to State and Territory Governments) - this will apply from 1 July 2012;
- a refundable tax offset (the Resource Exploration Rebate) at the company level, set at the prevailing company tax rate, for exploration expenditure in Australia incurred on or after 1 July 2011;
- reduction in company tax rate to 28%- small businesses will benefit from 2012-13, but it will be phased in for other companies (29% for 2013-14 and 28% from 2014-15);
- small businesses will be able to immediately write-off assets valued at under $5,000 (currently $1,000) and all other assets (except buildings) will be written off in a single depreciation pool at a rate of 30% - this will apply from 1 July 2012;
- super contributions cap concession: workers aged 50 and over with super balances below $500,000 will be able to make up to $50,000 in annual, concessional superannuation contributions - to apply from 1 July 2012;
- Superannuation Guarantee age limit will be increased from 70 to 75 from 1 July 2013;
- Superannuation Guarantee rate will rise to 12% by 2019-20 (to be phased in from 1 July 2013); and
- Government will provide a $500 annual superannuation contribution to individuals with an adjusted taxable income up to $37,000.

Where to get Budget documents

On the Web

The 2010-11 Budget Papers are available at any of the following Websites:

- Federal Government (http://budget.australia.gov.au)
- Australian Parliament House (www.aph.gov.au/budget)
- Australian Taxation Office (www.budget.gov.au)
- Department of Finance and Deregulation (www.finance.gov.au/budget)

Those Websites also link to previous years' Federal Budget papers going back to 1996-97.

Print copies

The 2010-11 Budget Papers are also available for sale from the CanPrint Communications Pty Limited shopfront in Canberra at 16 Nyrang St, Fyshwick (tel: 1300 889 873) from 7.30pm on 11 May 2010.

The Budget documents can also be ordered through CanPrint Communications Pty Ltd to be posted from 12 May 2010. Full details of purchase options are on the Federal Budget Website.

by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[732]

Stronger economy delivers election Budget - by Reuters News

The Federal Government moved to woo back disillusioned voters with pre-election Budget on Tuesday, reining in spending, promising a quick return to surplus, and affirming its determination to hit miners with a new tax.
The Budget offered a more upbeat assessment of the Australian economy with forecasts for stronger growth on the back of resilient resources demand from China and India, lower unemployment, subdued inflation and a small surplus by 2012-13.

But with elections due within 6 months, the Budget raises the stakes in the government's fight with miners over a 40% super profits tax, to start in July 2012, with Treasurer Wayne Swan saying he is determined to deliver the tax to strengthen the economy.

We need to manage our resource wealth more sustainably, capturing a fairer share for all Australians and turning it into other forms of wealth that last, Swan said in his budget speech.

The smaller deficit, a faster return to surplus and forecast for subdued inflation in the years ahead, could also ease concerns that the Budget could prompt further rate hikes, increasing the burden for households in a country where home ownership is a national obsession.

Targeted spending

The Budget did have some targeted spending seen as vote getters. The Government announced tax breaks for the first $1,000 ($900) of bank interest earned, a measure aimed primarily at pensioners and retirees.
The Budget also contained measures to simplify the tax system with a plan Swan said would save 6.4m workers the need to lodge annual tax returns.

More broadly, the Budget contains around $2.2bn in new spending on health, on top of the $5bn programme agreed between Rudd and state governments on hospital funding.

The Budget also had more money for border security and for new patrol boats to police the northern borders, in an announcement that should be popular with Australians worried about an influx of refugee boats.

The Government also earmarked an extra A$1bn to upgrade key freight rail lines, to allow heavier and faster trains and to un-lock key infrastructure bottlenecks.

Swan, however, rejected suggestions the budget was designed with an eye on the next election.

"This Budget was not designed to shift opinion polls, and I doubt that it does," Swan told reporters. "This is not about setting the government up for an election."

Stronger economy

The Government's final Budget before the election paints a rosier picture of the economy than its previous forecasts last November, with stronger growth and lower unemployment, thanks to continued strong demand for resources from China and India.

Economic growth is forecast at 2% in 2009-10, and 3.25% in 2010-11, both up 0.5 points since November but lower than the latest central bank forecasts.

Unemployment is forecast to have already peaked at 5.8%, and was seen at 5.25% in 2009-10, 5.0% in 2010-11 and 4.75% in 2011-12.

But the centrepiece was the underlying cash deficit of $40.8bn in 2010-11 or 2.9% of GDP, higher than market expectations, and $13.0bn or 0.9% of GDP in 2011-12 compared to expectations of $19b.

They will be followed by a $1bn surplus in 2012-13, 3 years earlier than last November's official forecasts, and $5.4bn surplus the following year.

Swan on May 2 announced the new mining tax, which will raise $3bn in 2012-13 and $9bn in 2013-14. But Swan said money from the new tax was earmarked for company tax cuts, and would not underpin the surplus.

The opposition has promised to try to block the tax, and laws for the tax will not be put to parliament until after the next election, which makes the mining revenue reliant upon the Government winning a second term in office.

"We are not coming back to surplus using this multi-million tax on the resources industry," Swan said, adding it would be a setback for growth if the tax did not go ahead.

The mining industry is mounting a strong campaign against the tax, and has warned mining expansion will be put on hold and investment moved offshore due to the tax.

But Mr Swan said the Government was determined to introduce the new tax, and said Australia would remain an attractive destination for resource investment. (Reuters report by James Grubel, editing by Balazs Koranyi and Stuart Jones.)

by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

PERSONAL TAXATION

[733]

50% savings discount for interest income

From 1 July 2011, the Government will provide individuals with a 50% tax discount on up to $1,000 of interest earned by individuals, including interest earned on deposits held with any bank, building society or credit union, as well as bonds, debentures or annuity products.

Importantly, the discount will be available for interest income earned directly as well as indirectly, such as via a trust or managed investment scheme, and is expected to benefit around 5.7m taxpayers in 2011-12. For a person earning an average pre-tax interest rate of 6%, the Government states that the discount would apply up to a savings balance of just over $16,500.

Currently, the Government says there is considerable variation in the taxation treatment of alternative savings vehicles, with relatively higher levels of taxation applying to interest income. For instance, most interest income is currently taxed at the individual's marginal rate, while certain capital gains can receive a 50% discount.
This measure is expected to have an ongoing cost to revenue estimated to be $950m over the forward estimates period (plus a consequential expense of $145.7m as a result of reducing adjusted taxable income for the purpose of determining eligibility for transfer).

Adjusted taxable income

The Government states that taxpayers claiming the discount for interest income will have a reduced adjusted taxable income for the purpose of determining eligibility for transfer payments and other concessions. This may result in some individuals and families becoming eligible for transfer payments or eligible for a larger transfer payment. The Government noted that the consequential expense primarily affects Family Tax Benefit, but will also affect other payments such as the Baby Bonus, Child Care Benefit, Education Tax Refund, Commonwealth Seniors Health Card (CSHC) and the Pensioner Supplement (which is linked to eligibility for the CSHC).

Further consultation

The Government said it will consult during 2010-11 on details concerning the operation of the discount, including in relation to any boundary issues relating to the scope of the discount, eligible savings products and the mechanism for applying the discount to interest earned indirectly by individuals. Capital funding of $4.3m will also be provided to the Tax Office.

Date of effect

The measure will apply from 1 July 2011.

Henry Report recommendation

The Treasurer noted that this announcement is in response to the Henry Tax Report (see 2010 WTB 18 [691]) recommendation to provide a tax discount on interest income from savings.

However, following industry submissions, including those from the Institute of Chartered Accountants in Australia (ICAA) and the National Institute of Accountants (NIA), the Government appears to have been persuaded to apply a 50% discount, instead of the 40% discount proposed by the Henry Report.

In particular, Recommendation 14 of the Henry Tax Report called for a 40% savings income discount for individuals' non-business related income, including: (a) net interest income; (b) net residential rental income (including related interest expenses); (c) capital gains (and losses); and (d) interest expenses related to listed shares held by individuals as non-business investments. However, at that time, the Prime Minister and the Treasurer said that the Government would not proceed with the recommendation to apply the discount to negative gearing deductions: see 2010 WTB 18 [690].

Commenting on the Government's announcement tonight, Mr El-Ansary, the ICAA's Tax Counsel, stated that "the decision today to provide a 50% discount for earnings up to $1,000 per year delivers a real incentive for Australians to save for the future. We have a national savings problem in this country and this measure will start to make inroads into dealing with that,"

Source: Budget Paper No 2 [p 36]; Treasurer's press release, 11 May 2010 , The Institute of Chartered Accountants in Australia Media Release, 11 May 2010.
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[734]

Standard deduction for work-related expenses

The Government will provide individual taxpayers with a standard deduction of $500 for work-related expenses and the cost of managing tax affairs from 1 July 2012. The standard deduction will increase to $1,000 from 1 July 2013. Those taxpayers with deductible expenses greater than the standard deduction amount will still be able to claim their higher expenses, in lieu of claiming the standard deduction amount.

According to the Government, this measure is an important step towards a "tick and flick" system of pre-filled tax returns that will make life easier for taxpayers at tax time. A standard tax deduction was recommended by the Henry Tax Report: see 2010 WTB 18 [691].

The standard deduction will reduce individuals' and families' adjusted taxable income for the purpose of determining their eligibility for transfer payments and other concessions (eg the Family Tax Benefit, Baby Bonus, Child Care Benefit, the Commonwealth Seniors Health Card and the Seniors Supplement). This will make some individuals and families eligible for transfer payments or eligible for a larger transfer payment.
In its discussions with the Henry tax review panel, the Institute had proposed a standard deduction which varied on the basis of an individual's taxable income.

Mr El-Ansary, the Institute's Tax Counsel, said the simplified tax return system, which would remove the need for many Australians to wade through 205 pages of the annual tax pack, was made possible by a prudent approach to controlling expenditure aimed at returning the Budget to surplus by 2012-2013.

"From an accounting perspective, if a business was making a loss, you would expect management to take decisive action to rein in the loss and return to profitability. The same logic applies to managing the economy's finances, which is why it was critical the government delivered on its commitment to cap real expenditure growth to 2% a year," Mr El-Ansary said.

Source: Budget Paper No 2 [p 47]; Treasurer and Assistant Treasurer joint press release, 11 May 2010 , The Institute of Chartered Accountants in Australia Media Release, 11 May 2010.
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[735]

Personal tax rates - no change to already legislated rates for 2010-11

The Government did not make any changes to the currently legislated tax rates for 2010-11 (as previously enacted by the Tax Laws Amendment (Personal Income Tax Reduction) Act 2008).

This means that for the year commencing 1 July 2010, the resident tax rates will be as follows:

Residents: rates and tax payable from 1 July 2010

Taxable income ($)	**Tax payable ($)**
0 - 6,000	Nil
6,001 - 37,000	Nil + 15% of excess over 6,000
37,001 - 80,000	4,650 + 30% of excess over 37,000
80,001 - 180,000	17,550 + 37% of excess over 80,000
180,001+	54,550 + 45% of excess over 180,000

The legislated current and 2010-11 personal tax rates and thresholds for resident individuals (excluding the 1.5% Medicare levy) are (with key changes highlighted in bold):

Residents: Personal tax rates and thresholds

Current 2009-10 income year		**From 1 July 2010**	
Taxable income (%)	Rate (%)	Taxable income (%)	Rate (%)
0 - 6,000	0	0 - 6,000	0
6,001 - **35,000**	15	6,001 - **37,000**	15
35,001 - 80,000	30	**37,001** - 80,000	30
80,001 - 180,000	**38**	80,001 - 180,000	37
180,001+	45	180,001+	45
Low income tax offset			
1,350		1,500	

The main tax cuts to apply from 1 July 2010 will reduce the tax rate on incomes between $80,000 and $180,000 from 38% to 37%, providing tax savings of up to about $25 per week for those on $180,000. Also from that date, the low income tax offset will increase from $1,350 to $1,500 thereby increasing the effective tax-free threshold to $16,000 for people earning $30,000 or less.

Low income tax offset

For the current 2009-10 income year, taxpayers are entitled to the low income tax offset of $1,350 if their taxable income is less than $63,750. For 2010-11, this upper threshold will increase to $67,500 to accommodate the previously legislated increase in the offset to $1,500. The low income tax offset will continue to phase out at a rate of 4 cents in the dollar for every dollar of income over $30,000.

As a consequence of the increases in the low income tax offset, the income level above which senior Australians (eligible for the senior Australians tax offset) begin to pay tax will increase. This will mean that eligible senior Australians will have no tax liability until their incomes reach:

- $29,867 for singles and $25,680 for each member of a couple in the 2009-10 income year; and
- $30,685 for singles and $26,680 for each member of a couple in the 2010-11 income year.

Medicare levy

The Medicare levy threshold amount for individuals eligible for the senior Australians tax offset will increase to $30,685 from 1 July 2010 (up from $29,867 for 2009-10).

The Medicare levy threshold amount for certain couples eligible for the senior Australians tax offset, where the threshold for single senior Australians is not sufficient to ensure that they incur no Medicare levy liability until they incur an income tax liability, will increase to $44,500 from 1 July 2010 (up from $43,500 for 2009-10).

The Medicare levy phase-in limit for individuals eligible for the senior Australians tax offset will also increase to $36,100 from 1 July 2010 (up from $35,137 for 2009-10). The Medicare levy phase-in limit that applies to certain couples eligible for the senior Australians tax offset, will also increase to $52,353 from 1 July 2010 (up from $51,177 for 2009-10).

Non-resident individuals

For the year commencing 1 July 2010, the non-resident tax rates are already legislated as follows:

Non-residents: rates and tax payable from 1 July 2010

Taxable income ($)	**Tax payable ($)**
0 - 37,000	29%
37,001 - 80,000	10,730 + 30% of excess over 37,000
80,001 - 180,000	23,630 + 37% of excess over 80,000
180,001+	60,630 + 45% of excess over 180,000

The legislated current and 2010-11 personal tax rates and thresholds for non-resident individuals (excluding the 1.5% Medicare levy) are (with key changes highlighted in bold):

Non-residents: Personal tax rates and thresholds

Current 2009-10 income year		**From 1 July 2010**	
Taxable income (%)	Rate (%)	Taxable income (%)	Rate (%)
0 - **35,000**	29	0 - **37,000**	29
35,001 - 80,000	30	**37,001** - 80,000	30
80,001 - 180,000	**38**	80,001 - 180,000	37
180,001+	45	180,001+	45

Source: Treasurer's media release, 11 May 2010
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[736]

Medicare levy thresholds increased for 2009-10

From the 2009-10 income year, the Medicare levy low-income thresholds will be increased for singles to $18,488 (up from $17,794 for 2008-09) and to $31,196 for those who are members of a family (up from $30,025 for 2009-10). The additional amount of threshold for each dependent child or student will also be increased to $2,865 (from $2,757).

The Medicare levy low-income threshold for pensioners below Age Pension age will also be increased from 1 July 2009 to $27,697 (from $25,299). This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy while they do not have an income tax liability.

Date of effect

The measure will apply from 1 July 2009.

Source: Budget Paper No 2 [p 36]; Treasurer's media release, 11 May 2010
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[737]

Calculation of SATO corrected

The regulations affecting the calculation of the rebate threshold for the senior Australians tax offset (SATO) will be amended to correctly factor in the effect of the low income tax offset.

The rebate threshold is the amount of rebate income an eligible taxpayer can have before the amount of SATO is reduced. The formula in the regulations for calculating the rebate threshold (in the Income Tax Regulations) currently fails to reflect the fact that the low income tax offset is reduced when taxable income exceeds $30,000. The regulations will be amended to correct this.

Date of effect

The regulations will be amended with effect from 1 July 2010.

Source: Budget Paper No 2 [p 13]
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[738]

Medical expenses rebate threshold raised

The medical expenses rebate threshold will increase from $1,500 to $2,000 from 1 July 2010.

Taxpayers presently receive a rebate equal to 20% of net unreimbursed eligible medical expenses above $1,500. This $1,500 threshold will increase to $2,000. In addition, from 1 July 2011, the threshold will be indexed annually to the Consumer Price Index.

Source: Budget Paper No 2 [p 35]
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[739]

Public ancillary funds

The Government will introduce a new regulatory framework for public ancillary funds similar to that introduced in 2009 for private ancillary funds.

The framework will include legislative guidelines governing the establishment and maintenance of the funds and provide the Commissioner of Taxation with the power to impose administrative penalties on trustees for breaches of the guidelines. Transitional rules will be introduced to facilitate transition into the new regime.

The charitable sector will be given the opportunity to comment on the measure as part of a public consultation process.

Date of effect

The new regime will commence from 1 July 2011.

Source: Budget Paper No 2 [p 37]; Assistant Treasurer press release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[740]

FHSA changes

The Government is proposing changes to the First Home Savers Account (FHSA) scheme.

The current rules require that FHSA holders keep their savings in an FHSA for 4 financial years before they are able to use those savings to buy a home. However, if an account holder buys a home before the end of that 4-year period, the balance of their FHSA must be transferred to their superannuation (the logic here is that it thus remains in a concessionally taxed environment).

The Government proposes that savings in an FHSA can be paid into an approved mortgage after the end of a minimum qualifying period, rather than requiring it to be paid to a superannuation account.

The Government will release draft amendments for consultation over the coming months. The changes will apply for houses purchased after assent of the legislation that will give effect to this measure.

Source: Treasurer and Minister for Housing joint press release, 11 May 2010

by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

BUSINESS TAXATION

[741]

Look-through treatment for earnout arrangements

All payments under a qualifying earnout arrangement will be treated as relating to the underlying business asset.

Earnout arrangements are used to structure the sale of a business (or business assets) to manage uncertainty about the value of the business. Under the earnout arrangement, an earnout right may entitle the buyer or seller to additional payments depending on the subsequent performance of the business.

Currently, an earnout right is treated as a separate CGT asset. The Budget Papers state that this treatment can result in "anomalous outcomes" for taxpayers where the actual payments under the earnout right differ from the amounts estimated at the start of the arrangement (eg, by reducing access to the CGT small business concessions).

This measure has an ongoing cost to revenue that is estimated to cost $15 million over the forward estimates period.

Date of effect

The measure will have effect from the date of assent of the enabling legislation, with transitional provisions available in certain cases from 17 October 2007.

Source: Budget Paper No 2 [p 16]
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[742]

Extended CGT demerger relief

The Government will amend the CGT demerger provisions to allow another member of a demerger group to qualify as the head entity of the group where the existing head entity cannot demerge its interests in the demerger group. The current legislation prevents demerger groups from accessing demerger relief where the head entity is a corporation sole or a complying superannuation entity.

Date of effect

The measure will apply to CGT events happening after 7:30pm on 11 May 2010. The Government expects to release draft legislation on the measure at a later date.

Source: Budget Paper No 2 [p 15]; Assistant Treasurer's press release 11 May 2010
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[743]

Share sale facility exclusion and CGT rollovers

Legislation will be enacted to allow Australian interest holders to utilise a broader range of CGT rollovers where an entity restructures using a share or interest sale facility for foreign interest holders.

Companies may use a share or interest sale facility to restructure when it would be impractical and expensive for them to comply with requirements in foreign jurisdictions relating to the issuing of interests to their foreign interest holders.

Where a business uses a share or interest sale facility, Australian resident interest holders may not be able to access a relevant CGT roll-over. This is because certain roll-overs require that all interest holders exchange their interests in the original entity for interests in the new entity. Under a share or interest sale facility, new interests which would have been allocated to foreign interest holders are allocated to an agent.

This means, currently, where a business restructures and it uses a share or interest sale facility for foreign interest holders, Australian resident interest holders are unable to access some CGT rollovers. Accordingly, the Government intends to extend the share sale facility exclusion that currently operates in limited circumstances for Authorised Deposit-taking Institutions to operate more broadly for other entities and for other relevant CGT rollovers.
The measure is expected to have a negligible revenue impact.

Date of effect

The measure will apply to CGT events happening after 7:30pm on 11 May 2010.

Source: Budget Paper No 2 [p 17]; Assistant Treasurer's press release 11 May 2010
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[744]

Consolidated groups: calculation and collection of income tax liabilities

The rules relating to the calculation and collection of income tax liabilities from consolidated groups and multiple entry consolidated groups (MEC groups) are to be amended. The amendments are intended to allow an entity in a tax sharing agreement to leave a consolidated group or MEC group clear of any future income tax liabilities relating to the group.

For consolidated groups and MEC groups, the changes are designed to clarify that:
- PAYG liabilities can be recovered under the liability for payment rules in the income tax law, with effect from 11 May 2010;
- an entity which pays its contribution amount under a tax sharing agreement can leave a group clear of any further liability, with effect from the 2004-05 income year.

Additional changes for MEC groups will ensure that:
- the liability for payment rules apply to those groups, with effect from 11 May 2010; and
- where there is a change in the provisional head company during an income year, any PAYG instalments paid by the former provisional head company on behalf of the group are attributed to the group, with effect from 1 July 2002.

Amendments are also proposed which will clarify that relevant parts of the income tax law apply to MEC groups in the same way as they apply to consolidated groups, with effect from 1 July 2002.
The Budget Papers state that the measures will, in most cases, “confirm existing practice” and should have no revenue impact.

Source: Budget Paper No 2 [p 19]; Assistant Treasurer’s press release 11 May 2010
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[745]

Consolidation: amendment application dates varied

The Government advised in the Budget Papers that it will modify the announced dates of effect of various measures in relation to the consolidation regime that had previously been announced on 13 May 2008. The intention is to ensure that consolidated groups are not disadvantaged by retrospective changes to the law.

There are no further details in the Budget Papers. The measure is expected to have an “unquantifiable revenue impact”.

Source: Budget Paper No 2 [p 20]
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[746]

Improvements to Running Balance Account provisions

The Government has announced that it will increase flexibility in managing running balance accounts and provide for interest to be paid to taxpayers if an overpayment arises because of an amended franking deficit tax assessment. The Government states that the amendments will take effect from a date to be decided after public consultation.
Source: Budget Paper No 2 [p 28]

by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[747]

Capital protected borrowings - benchmark interest rate

The Government will adjust the benchmark interest rate that applies to capital protected borrowings to the Reserve Bank of Australia (RBA) indicator rate for standard variable housing loans plus 100 basis points, instead of the RBA indicator rate for standard variable housing loans as announced in the 2008-09 Budget.

The Government will also extend the transitional arrangements for capital protected borrowings from the previously announced 13 May 2013 to 30 June 2013.

Date of effect

These measures will apply to capital protected borrowings entered into from 7:30 pm (AEST) 13 May 2008.

Source: Budget Paper No 2 [p 18]; Assistant Treasurer press release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[748]

IWT to be phased down

The Government will phase down the interest withholding tax (IWT) paid by financial institutions on most interest paid on offshore borrowings.

For local subsidiaries of overseas parents, the IWT rate will be reduced on such borrowings from 10% to 7.5% in 2013-14 and to 5% in 2014-15. The Government is favourably disposed to reducing this rate to zero, subject to its medium-term fiscal objectives.

Additionally, the IWT rate applying to borrowings by any bank branch from its overseas head office will be reduced from 5% to 2.5% in 2013-14 and to zero in 2014-15.

As an integrity measure, the IWT phase down will not apply to interest paid on non-resident retail deposits held in Australia.

This measures implements a recommendation of the Henry Tax Report: see 2010 WTB 18 [691]. It also responds to a recommendation of the Johnson Report: see [***] of this Bulletin.

The measure received a favourable response from the Institute. Tax Counsel, Mr El-Ansary stated:
“These changes are important, but there is more work to be done. Other important future initiatives should include a clearer policy around the use of pooled investment funds, the introduction of an investment manager regime and the abolition of a range of inefficient state taxes.”

The table below shows the current and proposed IWT rates and exemptions for financial institutions.

Type of borrowing	Current IWT	From 2013-14 Proposed	From 2014-15 Proposed
Financial institution borrows from a foreign financial institution (if not exempt under a tax treaty)	10%	7.5%	5% 1
Foreign bank branch borrows from overseas head office	5%	2.5%	Exempt
Financial institution borrows from offshore retail deposits (proceeds used and traced to Australian operations)	10%	7.5%	5% 1
Financial institution borrows through a publicly offered debenture issue, non-equity share or syndicated loan	Exempt	Exempt	Exempt
Offshore banking unit (borrows and on-lends offshore)	Exempt	Exempt	Exempt
Financial institution borrows from non-resident retail deposits held in Australia	10%	10%	10%

1. Aspirational target of zero.

Source: Budget Paper No 2 [p 43]; Treasurer, Minister for Financial Services, Superannuation and Corporate Law and Assistant Treasurer joint press release, 11 May 2010

by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[749]

Managed investment trusts

The definition of a managed investment trust (MIT) for withholding tax purposes is to be amended to include certain wholesale managed investment schemes and certain widely held pooled superannuation trusts.

These changes will broaden the scope of the MIT withholding tax rules. They will also more closely align those rules with, and have flow-on effects for, the MIT deemed capital account treatment measure.

The definition will also introduce tests to exclude trusts that are carrying on a trading business, are closely held, or are not managed in Australia. The operation of the rules will be clarified to make it clear that they can apply in cases where the trust has only one member and that member is itself a specified widely held entity.

Date of effect

This measure will apply with effect from the first income year starting on or after the date the enabling legislation receives assent.

New MIT regime

On 7 May 2010, the Government announced that it will introduce a new taxation regime for MITs in response to the Board of Taxation's report Review of Tax Arrangements applying to Managed Investment Trusts. For further information, see 2010 WTB 19 [693].

Source: Budget Paper No 2 [p 31]
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[750]

Film tax offsets changes

The Budget contains measures changing eligibility requirements for film tax offsets:
- the current requirement under the Location Offset for productions valued between $15m and $50m to spend a minimum of 70% of their production budgets in Australia will be removed; and
- the Post, Digital and Visual Effects Production (PDV) offset threshold will be reduced from $5m to $500,000.

The measures are intended to provide a boost for the Australian film industry.

Date of effect

Both these measures will apply from 1 July 2010.

Source: Budget Paper No 2 [p 292]; Assistant Treasurer and Minister for Environment Protection, Heritage and the Arts joint media release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[751]

Increased funding to counter cash economy

The Government will provide $107.9m over 4 years to the Tax Office to address small business operators who use cash transactions to avoid tax. The Budget Papers state that this is expected to increase the "visibility of the Tax Office in the community".

This measure is expected to result in:
- an additional $491.8m in revenue in fiscal balance terms over 4 years; and
- an increase of $39.9m in Tax Office administered expenses over the same period.

In underlying cash terms, the expected increase in revenue is $366.5m over 4 years, including $146.7m in GST collections that will be paid to the States and Territories.

Source: Budget Paper No 2 [p 13]
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[752]

Continuation of Standard Business Reporting

The Government will provide $73.2m over 5 years (including a carry-forward of $16.7m in unspent development funding from 2009-10 to 2010-11) to the Australian Securities and Investment Commission, the Tax Office and the Treasury to main and operate the Standard Business Reporting (SBR) program. The funding includes $2.6m in 2010-11 for payment to the States and Territories to manage and operate their components of the SBR system.

Source: Budget Paper No 2 [p 296]; Minister for Financial Services, Superannuation and Corporate Law's media release, 11 May 2010
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[753]

Rollover of Indigenous incorporated bodies

The CGT rollover provisions will be extended to allow Indigenous incorporated bodies to convert to a company under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 ("CATSI Act") without immediate CGT consequences. Also, Indigenous companies will be able to move between the Corporations Act 2001 and the CATSI Act without CGT consequences.

The changes will provide a roll-over for any gains or losses realised by the original entity when it ceases to own its CGT assets, trading stock, and depreciating and revenue assets that become assets of the newly incorporated entity as part of the reincorporation. The expanded roll-over will also allow a taxpayer to receive shares on incorporation that reflect all of the interests and rights they held in the body prior to the transfer of incorporation (eg where bodies are wound up and subsequently reincorporated).

Date of effect

The measure will apply to CGT events happening after 7:30pm on 11 May 2010.

Source: Budget Paper No 2 [p 15]; Assistant Treasurer's press release 11 May 2010
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

GST MEASURES

[754]

Reforms to the GST financial supply provisions

The Government has announced that it will amend the financial supply provisions of the GST law to clarify the operation of the legislation and reduce compliance and administrative costs, particularly for small businesses.

While the Government states that the current architecture of the financial supply provisions will be maintained, the following changes will be made:

- Financial acquisition threshold - the financial acquisition threshold input tax credit will be increased from $50,000 to $100,000. According to the Government, the increase will enable more small businesses to avoid being caught up in the financial supply regime.
- Hire purchase agreements - the treatment of hire purchase agreements will be simplified by removing the need to apply different GST treatments to different parts of a supply. The Government states that "by treating the whole supply as taxable", taxpayers will not need to account for part of the supply as taxable and the other part as input taxed. It is also proposed that the attribution rules for hire purchase arrangements will be made the same for cash and non-cash taxpayers.
- Borrowings - the current special rules for borrowings will be amended to exclude bank deposit accounts.
- Reduced input tax credit - the range of expenses qualifying for a reduced input tax credit (RITC) will be expanded to: (i) include acquisitions related to supplies of life insurance by superannuation funds to their members; (ii) clarify that RITCs will be available for lenders' mortgage reinsurance and lenders' mortgage insurance; and (iii) add a new item covering transactional fraud monitoring services. It is also proposed that the provisions allowing a RITC for trustee and responsible entity services will be amended to prevent the provisions from being used to allow RITCs for all acquisitions. The Government states that there is no change to the current RITC rate of 75%.
- Technical amendments - a technical amendment will be made to clarify the language and relationship between various concepts (guarantee and indemnities).

Date of effect

The Government has proposed that the amendments will commence from 1 July 2012. The Government states that it will consult with interested parties on implementing the proposed amendments.

The proposed amendments are subject to the unanimous agreement of the States and Territories.

Thomson Reuters note

In the 2009-10 Federal Budget, the Government announced that it would implement most of the Board of Taxation's recommendations from its review of the legal framework of the administration of the GST: see 2009 WTB 19 [881]. The proposed amendments will implement Recommendation 23 of the Board's review. While the Board recommended that the financial acquisition threshold should be simplified by reducing the frequency of testing to an annual basis (Recommendation 25), the Government has not responded whether it will implement this recommendation.

Source: Budget Paper No 2 [p 25]; Assistant Treasurer's media release, 11 May 2010
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[755]

Reforms to GST margin scheme

The Government has announced that it will clarify and simplify the margin scheme provisions contained in Div 75 of the GST Act. The Government states that it will restructure the margin scheme provisions to give prominence to the main principles with exceptions set out separately and insert objects clauses for the key provisions so that the intention is clear.

The Government has also stated that a minor technical amendment will be made to ensure that a valuation can be obtained for the purposes of using the margin scheme for subdivided land.

Date of effect

The Government has proposed that the amendments to the margin scheme will apply from 1 July 2012.

Thomson Reuters note

In the 2009-10 Federal Budget, the Government announced that it would implement most of the Board of Taxation's recommendations from its review of the legal framework of the administration of the GST: see 2009 WTB 19 [881]. The proposed amendments to the margin scheme will implement Recommendation 22 of the Board's review.

Source: Budget Paper No 2 [p 26]; Assistant Treasurer's media release, 11 May 2010
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[756]

Revamp of GST-treatment for Australian taxes, fees and charges

The Government has proposed that the GST provisions relating to Australian taxes, fees and charges (contained in Div 81 of the GST Act) will be replaced with a principles-based legislative exemption. It is intended that the proposed amendments will allow the GST-treatment of an Australian tax, fee or charge to be determined against legislative principles. It also intended that the proposed amendments will provide increased certainty to taxpayers and Government agencies as the tax treatment of the tax, fee or charge is not dependent on it being listed in a determination.

Date of effect

The proposed amendment will commence from 1 July 2011.

Source: Budget Paper No 2 [p 25]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[757]

Commencement date of some Board of Taxation's recommendations revised

In the 2010-11 Federal Budget, the Government announced that it has revised the commencement date for the following Board of Taxation's recommendations from its review of the legal framework for the administration of the GST to 1 July 2011:

- adopting the income tax self-assessment regime for indirect taxes (Recommendation 21);
- refreshing the period of review (Recommendation 19);
- reforming the change of use adjustments (Recommendation 4);
- allowing adjustments for pre-registration acquisitions (Recommendation 8);
- clarifying the GST-treatment of tax law partnerships (Recommendation 36);
- simplifying the GST grouping membership interest rules and allowing grouping of non-operating holding companies (Recommendation 32(a)); and
- introducing a reverse charge for supplies of going concerns and farmlands (Recommendation 33).

The Government initially stated that the recommendations would apply from 1 July 2010, with the exception of Recommendation 36 which was proposed to apply from the start of the first quarterly tax period after the Bill introducing the amendment receives Royal Assent.

Source: Budget Paper No 2 [p 24]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[758]

GST compliance program: funding for ATO

The Government states that it will provide $337.5m over 4 years (ie 2010-11 to 2013-14 income years) to the Tax Office to fund additional activities that will promote voluntary GST compliance and will provide a level playing field for Australian businesses. The Government also states that the funding will address issues relating to fraudulent GST refunds, systematic under-reporting of GST liabilities, non-lodgment of GST returns and non-payment of GST debts.

Source: Budget Paper No 2 [p 27]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[759]

Export of boats used for recreational purposes

The Government has proposed that a supply of a boat used for recreational purposes to be GST-free if the boat is exported by a purchaser (from Australia) within 12 months and only used for recreational purposes whilst in Australia. Currently, the GST law requires that the boat be exported within 60 days.

The Assistant Treasurer said the proposed amendments will allow Australian boat builders to overcome disadvantages they face relative to foreign competitors. “Buyers will be able to sail new Australian-made boats in our waters for up to 12 months without paying GST on the sale price, resulting in economic benefits for Australia’s coastal regions”, said the Assistant Treasurer.

Date of effect.

It is proposed the amendment will apply from 1 July 2011 and is subject to the unanimous agreement of the States and Territories.

Source: Budget Paper No 2 [p 26]; Assistant Treasurer’s media release, 11 May 2010
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[760]

GST cross-border transactions

The Government has stated that it will implement all the recommendations of the Board of Taxation from its Review of the application of GST to cross-border transactions, with effect from 1 July 2012. According to the Government, the package will significantly reduce the number of non-residents who are unnecessarily drawn into Australia’s GST system through:

- limiting the connected with Australia provisions;
- expanding the compulsory reverse charge provision;
- extending the GST-free rules for cross-border supplies; and
- removing the need for some non-residents to register.

The components of the package that will result in changes to the GST base are subject to the unanimous agreement of the States and Territories.

Source: Budget Paper No 2 [p 23]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

SUPERANNUATION

[761]

Institute of Chartered Accountants disappointed

ICAA Tax Counsel, Mr El-Ansary stated that while important changes to superannuation were announced as part of the government's response to the Henry Tax Review, it was expecting residual issues – such as excessive penalties for breaching superannuation contributions caps – would be addressed as part of the Budget.

Co-contribution matching rate permanently reduced to 100%

The Government announced that it will look to permanently set the matching rate for the superannuation co-contribution at 100% and the maximum co-contribution that is payable on an individual's eligible personal non-concessional superannuation contributions at $1,000.

As a result, the previously-legislated increase in the matching rate to 125% for 2012-13 and 2013-14 (and 150% for 2014-15 and later years) will not proceed.

Eligible income thresholds frozen

In addition, the Government said it will freeze for 2010-11 and 2011-12 the indexation applied on the income threshold above which the maximum superannuation co-contribution begins to phase down.

Under the superannuation co-contribution scheme, the Government currently provides a matching contribution for contributions made into superannuation out of after-tax income. The matching contribution is up to $1,000 for individuals with incomes of up to $31,920 in 2009-10 (with the amount available phasing down for incomes up to $61,920). This measure will freeze these thresholds at $31,920 and $61,920 for 2 years.

The Government says this measure follows its earlier announcement proposing a $500 annual superannuation contribution for individuals with an adjusted taxable income up to $37,000 in response to the Henry Tax Report: see 2010 WTB 18 [688].

Co-contribution administration

The Government announced that it will provide $16m over 5 years to the Tax Office to enhance the administration of the existing eligibility requirements for the superannuation co-contribution program (including $1.1 in 2009-10).

Source: Budget Paper No 2 [pp 298-299]
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[762]

Minor amendments - excess contributions tax; time limit for deductions

The Government announced that it will seek to make a number of minor amendments to improve the operation of the superannuation legislation. The amendments will include:

- allowing the Commissioner to exercise discretion for the purposes of excess contributions tax before an assessment is issued;
- clarifying the due date of the shortfall interest charge for the purposes of excess contributions tax;
- increasing the time-limit for deductible employer contributions made for former employees;
- permanently allowing a claim for a deduction for eligible contributions to be made to successor superannuation funds;
- providing new arrangements for public sector defined benefit schemes which fund benefits through “last minute contributions”.

Date of effect

The measures will apply from the 2010-11 income year.

Source: Budget Paper No 2 [p 49-50]
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[763]

Super fund deductions for terminal medical condition benefits

The Government announced that it will seek to extend the range of benefits that are deductible by complying superannuation funds and retirement savings account providers to include terminal medical condition (TMC) benefits.
The Government said this proposal addresses an anomaly in the taxation law regarding deductibility by superannuation funds and RSA providers of the costs of providing certain benefits to members/holders. Currently, the Government said deductions are allowable for the cost of providing benefits relating to the death, permanent incapacity and temporary incapacity conditions of release, but not those relating to the TMC condition of release.

Date of effect

This measure is proposed to have effect from 16 February 2008, the date the TMC condition of release was introduced into the superannuation legislation.

Source: Budget Paper No 2 [p 48]
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[764]

Superannuation Complaints Tribunal: $5.9m for increased workload

The Government announced that it will provide $5.9m over 4 years to cover the rising workload and complexity of complaints handled by the Superannuation Complaints Tribunal (SCT). The SCT hears complaints on issues such as disclosure and the timing and calculation of payments and rollovers.

The Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen, said this funding comes on the back of a 30% increase in the SCT's workload since 2004. The funding will assist the SCT to meet its statutory responsibilities to resolve consumer complaints in a manner that is fair, economical, informal and quick, Mr Bowen said. The funding for the SCT will be fully offset by an increase in financial sector levies collected from the superannuation industry by APRA.

Source: Budget Paper No 2 [p 299]; Minister for Financial Services, Superannuation and Corporate Law media release, 11 May 2010
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[765]

Transfer of State and Territory unclaimed superannuation to Tax Office

The Government announced that it will seek to improve the administration of superannuation by facilitating the transfer of any unclaimed superannuation monies held by the States and Territories to the Tax Office.
Currently, private sector superannuation funds pay unclaimed money to the Tax Office, whereas unclaimed superannuation from State and Territory public sector funds is instead held by the relevant State or Territory authority.
The Government's proposed measure will seek to allow the States and Territories to transfer unclaimed superannuation to the Tax Office. Individuals will still be able to claim back their money from the Tax Office at any time. The measure will have an ongoing gain to revenue estimated to be $29.6m over the forward estimates period.

Date of effect

The measure will have effect from the date the enabling legislation receives assent.
Source: Budget Paper No 2 [p 50]
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[766]

Transfers from the Military Superannuation Benefits Scheme

A CGT roll-over will be provided for transfers by the proposed Commonwealth Superannuation Corporation of assets from the Military Superannuation Benefits Scheme to the Australian Reward Investment Alliance (ARIA) investment trust.

The CGT roll-over will ensure that no capital gain or loss will be recognised at the time of the transfer. The provision of this CGT roll-over reflects the involuntary nature of the transaction due to proposed changes in the governance of the funds.

This measure has no revenue impact.

Date of effect

This measure will have effect from 1 July 2010 until 30 June 2011.

Source: Budget Paper No 2 [p 17]
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

OTHER MEASURES

[767]

Australia as a financial services centre

The Government has responded to the Report of the Australian Financial Centre Forum Australia as a financial centre: Building on our strengths (the "Johnson" Report). The Forum's report was released on 15 January 2010: 2010 WTB 2 [73].

The Government response provides in-principle or direct support for nearly all of the Forum's 19 recommendations, including the introduction of an Investment Manager Regime (see [768] of this Bulletin), the establishment of an online regulatory gateway, and the development of an Asia Region Funds Passport. Another measure that is intended to help position Australia as a leading financial services centre is the phase down of the IWT rate paid by financial institutions: see [748] of this Bulletin.

The Government has also asked Mr Mark Johnson to chair a task force of senior financial sector representatives to continue its work in promoting Australia as a financial centre for the region and facilitate industry input into the design of a range of proposals including the Asia Region Funds Passport, the Investment Manager Regime and funds management vehicles.

The role of the Task Force will cover 3 areas:
- regional engagement and enhancing Australia's presence in Asia;
- engagement with domestic industry on an informal basis; and
- facilitation of industry input into the design of several of the key outputs that flow from the recommendations of the Johnson Report.

Centre for International Finance and Regulation

The Government also announced the establishment of a Centre for International Finance and Regulation in Australia (this was not identified in the Johnson Report). The Centre will:
- provide tertiary education and training for financial regulators from Australia and the Asia Pacific region;
- undertake research into innovation in the financial sector;
- undertake research into developments in the financial sector globally, including in relation to prudent decision making and governance in financial markets, and to ensuring markets develop in a way that reduces inherent system risk;
- undertake research into best practice financial regulation; and
- enhance regional financial system stability and regional links.

One of the key themes underlying the work of the Centre will be fostering financial sector innovation while at the same time ensuring the risk inherent in the financial system is appropriately managed.

The Government will invest up to $25m over the next 4 years to establish the Centre. One decision to be made is which university or consortium of universities will host the Centre.

Source: Assistant Treasurer and Minister for Financial Services, Superannuation and Corporate Law joint media release, 11 May 2010; Prime Minister and Minister for Financial Services, Superannuation and Corporate Law joint media release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[768]

Investment manager regime

The Government will start consultation on an investment manager regime (IMR) that will reform and expand Australia's managed funds industry by removing impediments to international investment.

These reforms will draw on the recommendations of the Australian Financial Centre Forum report, also known as the Johnson Report. The Johnson Report recommended that:

- the Government introduce an Investment Management Regime (IMR) of wide application; and
- the Board of Taxation review the scope for providing a broader range of tax flow through collective investment vehicles.

The Government supports in principle both of these recommendations. The Henry Tax Review also recommended that the taxation arrangements applying to Australian managed funds should be improved to provide greater certainty that conduit income will not be subject to tax: see 2010 WTB 18 [691].

To commence the consultation process and further develop key features of an IMR, the Government today released a Consultation Paper which will form the basis for engagement with industry stakeholders. The Consultation Paper is available on the Treasury website.

Source: Assistant Treasurer and Minister for Financial Services, Superannuation and Corporate Law joint media release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[769]

Tax reform funding

The Government will provide $65m over 4 years to Treasury to develop and implement the Government's response to the recommendations of Australia's Future Tax System Review, including $38.5m over 2 years to inform the community of the Australian Government's tax reform agenda.
Additional funding of $1.7m over 2 years is provided to the Taxation Office to increase staffing in its call centre. The Government will also provide $3.8m over 4 years to the Office of Parliamentary Counsel to meet increased demand for legislative drafting.

Source: Budget Paper No 2 [p 297]
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[770]

Registration of business names

The Government will establish a national system of registering business names.
Currently, businesses have had to register separately in each State and Territory and pay registration fees to each government. Under the proposed measures, businesses will need to register only once and pay only one fee. The administration of business names will be transferred from the States to ASIC.
The reforms should result in:
- a single, national online registration system for business names and ABNs;
- a business-friendly way of searching for trademarks;
- a Business Licensing Information Service to give businesses customised information about their regulatory requirements including licences, registrations and permits; and
- online accounts that will allow businesses to access registrations, monitor compliance requirements and access regulatory change notifications from all governments.

Source: Budget Paper No 2 [p 276]; Minister for Small Business, Independent Contractors and the Service Economy; Minister for Competition and Consumer Affairs; and Minister Assisting the Finance Minister on Deregulation press release 11 May 2010
by Ian Murray-Jones
LTA.TaxNewsroom@thomsonreuters.com

[771]

Family Tax Benefit: proposed amendments

The Government proposed various amendments to the Family Tax Benefit (FTB). These amendments include:
- Non-lodgment of tax returns - the Government will implement a more flexible arrangement where FTB recipients who do not lodge tax returns. While the Government will retain the measure that recipients who have not lodged their tax returns for more than 12 months and have not responded to Centrelink requests to do would not receive FTB payments through fortnightly instalments until they lodge their returns, the proposed amendments will ensure that payments continue to be made if:
- the recipient does not have any FTB debt; or
- the recipient would suffer from undue hardship should the payments cease.
- Improved participation requirements for 16 to 20 years old - the Government will further strengthen the participation requirements announced in the 2009-10 Federal Budget for families with children aged between 16 and 20 who do not have a Year 12 or equivalent qualification to remain eligible for FTB-Part A. The measures announced in the 2009-10 Federal Budget will commence from 1 July 2010. Under the proposed amendment, participation in full-time education or training will be required in order for families to remain eligible for FTB-A.

Source: Budget Paper No 2 [pp 175-176]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[772]

Reduction in Child Care Rebate

The Government has announced that it will cap the annual Child Care Rebate to the 2008-09 level of $7,500 per child from the current annual cap of $7,778 per child. However, the Government states that the reduction in the Rebate will not alter the percentage of out-of-pocket expenses reimbursed by the Commonwealth. The Government has also announced that it will pause the indexation of the cap for 4 years.

Date of effect

The reduction and pausing of the indexation of the Rebate will commence from 1 July 2010.
Source: Budget Paper No 2 [p 28]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[773]

War Widows Pension: new de facto relationship and eligibility

The Government announced that it will remove eligibility for the War Widows (or Widowers) Pension for people whom before applying for the Pension, enter into a de facto relationship following the death of their veteran partner. According to the Government, the proposed amendment will remove an anomaly which allows widows (or widowers) who have entered into a de facto relationship following the death of their veteran partner to claim the Pension, whereas those who have since married cannot claim it. However, war widows (or widowers) who remarry or enter into a de facto relationship after claiming the Pension will not lose their entitlement under this measure, said the Government.

Source: Budget Paper No 2 [p 305]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[774]

Other social security measures

A number of social security measures were announced in the Budget, including:

- the Government will provide $9.7m over 2 years to extend the Distance Education Allowance Supplement of $1,084 pa per student until 30 June 2011, the Additional Boarding Allowance of $1,000 pa per student and the consequential ABSTUDY Boarders' rate for School Fees Allowance until 31 December 2011;
- from 1 July 2010, the Community Development Employment Projects (CDEP) program will be indexed by a Wage Cost Index (WCI) consistent with Government indexation arrangements for all programs with substantial wage costs. This will replace the current arrangement whereby the program is annually indexed by a combination of the CPI and the non-farm GDP deflator;
- the Government will amend the eligibility criteria and allowable uses for Special Disability Trusts, to make them more accessible and increase uptake (applicable from 1 January 2011). The definition of a beneficiary will be expanded to include people with a disability who can work up to seven hours per week (excluding work in an Australian Disability Enterprise) and the allowable uses for the trust will be expanded to include all medical expenses, including membership costs of private health funds, maintenance expenses of Special Disability Trust property and discretionary spending of up to $10,000 per year; and
- the Government will require compensation payers, such as insurance companies, to notify Centrelink prior to making compensation payments to clients, from 1 July 2011. Centrelink will then use this information to assess the recipient's ongoing entitlement to receive Centrelink benefits.

Source: Budget Paper No 2 [p 132, 135, 173, 186]; Minister for Families, Housing, Community Services and Indigenous Affairs media release, 11 May 2010
by Trevor Snape
LTA.TaxNewsroom@thomsonreuters.com

[775]

Fraud prevention and compliance: Centrelink debts and tax garnishee process

The Government has announced that it will provide $5.8m over 4 years (ie 2010-11 to 2013-14 income years) to the Tax Office to improve the current process for garnishing tax returns of ex-Centrelink customers who have an outstanding debt with Centrelink and no arrangement is in place to repay that debt. The Government states that the funding will enable the Tax Office to automatically intercept tax refunds on behalf of Centrelink.

Related measures

In addition to the funding to be provided to the Tax Office, the Government has also announced a variety of measures to better protect social welfare payments from fraud and improve compliance. These measures include:

- combating welfare fund linked to organised crime - the Government will provide $71m over 4 years to Centrelink to act on information from government intelligence and law enforcement agencies to identify and prevent abuse of the social welfare system by organised crime groups. The Government says the Australian Crime Commission has identified that organised criminal groups use the social welfare system as an income stream and to establish a legitimate cover for criminal activities (eg drug importations, fraud, money laundering and firearms trafficking);
- improving compliance with child support obligations- the Government will provide $3.7m over 4 years to the Child Support Agency to develop and implement an enhanced compliance capability to help ensure that parents meet their child support obligations.

Source: Budget Paper No 2 [pp 258-260]; Minister for Human Services's media release, 11 May 2010
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com

[776]

Business borrowing directly from retail investors - simplified process

To help boost business lending competition, the Government announced that ASIC will allow listed entities meeting appropriate criteria to issue bonds to retail investors using a simplified process.

Under the new streamlined process, the Government says issuers will be able to provide a shorter prospectus which clearly sets out all of the key information retail investors need to make an informed investment decision - without unnecessary detail which might otherwise confuse investors. Key terms to be disclosed will include the terms of the offer and the ability of the bond issuer to meet its interest and repayment obligations.

For subsequent bond issues, the Government says businesses will then be able to easily supplement this initial "base" prospectus with an update to investors setting out the terms of the new bond offer, plus any new information that investors will need to make an informed decision.

Combined with the existing continuous disclosure requirements which all listed companies are already subject to, the Government says this will provide a very robust level of protection for all retail investors. According to the Government, the reforms will better align the disclosure requirements for retail corporate bond issues with the simplified process already allowed for equity issuance.

Conditions

However, businesses will only be able to use the new streamlined process on the following strict conditions:
- the companies are listed and have a good continuous disclosure history - for example, they have not been suspended for more than five days over a period of 12 months;
- the bonds offered are simple, so-called "vanilla" bonds offered to retail and wholesale investors at the same price; and
- the size of the bond offer is at least $50m.

Disclosures will need to be made both in the prospectus and on an ongoing basis. The Government considers that this will help investors understand any credit, liquidity or other risks that might be involved.
The Government says the relevant information is contained in an ASIC Class Order - available on the ASIC Website.
Date of effect
The ASIC class order will take effect on the day after it is registered on the Federal Register of Legislative Instruments.

Source: Treasurer and Minister for Financial Services, Superannuation and Corporate Law, joint press release, 11 May 2010
by Stuart Jones
LTA.TaxNewsroom@thomsonreuters.com

[777]

Arrangements for fuel ethanol: proposed amendments

The Government announced that it will amend the 2004-05 Federal Budget measure to introduce an energy content-based fuel excise system.

The Government proposed that the excise and excise-equivalent customs duty rate for ethanol will be set at 25 cents per litre from 1 July 2011, phasing down to 12.5 cents per litre from 1 July 2015. It also proposed that an offsetting grant payment will be available to domestic ethanol producers that will be progressively reduced from 22.5 cents per litre on 1 July 2011 to zero by 1 July 2015. The Government proposed, further, that there will be no offsetting grants for excise-equivalent customs duty.

Source: Budget Paper No 2 [p 23]
by Eugene Ng
LTA.TaxNewsroom@thomsonreuters.com