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< ISSUE #31 | BUDGET 2015/16 – THE 'HAVE A GO' BUDGET

IN THIS ISSUE

Welcome to our special Budget 2015/16 edition.

Budget 2015/2016 is a highly targeted Budget that seeks to keep change within community tolerance levels.

Our take is as follows: -

- This budget offers little benefit or incentive to those businesses turning over more than $2M p.a. They will rightly be disappointed.
- Revenue measures target the asset or income rich, or just plain unpopular.
- This budget is politically expedient rather than focussed on introducing the necessary structural and economic reforms Australia requires.

TAX CUTS FOR MICRO BUSINESS (< $2M)

A tax cut if your business's aggregated turnover is less than $2m that is. If not, bad luck.

Small businesses with a turnover of $2m or below make up 97.5% of all businesses in Australia. The majority of taxpayers in this sector are not in a company structure - accounting for only 11% of the total company tax take despite the sheer volume of businesses represented. Well under half of these businesses paid net tax.*

There are only 72,000 businesses with a turnover between $2m and $5m. Despite the small volume, these businesses contributed 10% of the total company tax take.

These businesses did not receive any additional benefits in the Budget to help them grow and develop (aside from primary producers).

* based on 2011/2012.

Small Business Tax Cuts

Date of effect: From 2015/16 Income Year

The Government has announced tax reductions for small businesses with an aggregated annual turnover below $2m regardless of entity type.

For companies, the company tax rate will be reduced by 1.5% to 28.5%. Maximum franking credit rates for a distribution will remain unchanged at 30%.

For taxpayers operating through an unincorporated business structure (partnerships, trusts, etc.), they will receive a 5% tax discount on the income tax payable on business income received. The discount is capped at $1,000 per individual for each income year, and delivered as a tax offset.

It's important to remember that you need to make a profit to benefit from these changes. The last taxation statics released by the ATO showed that less than half of all businesses with this income level made a taxable profit.

Accelerated depreciation on purchases up to $20k

Date of effect: Between 7.30pm (AEST) 12 May 2015 and 30 June 2017

Businesses with an aggregated turnover of under $2m can now immediately deduct assets they start to use or install ready for use, provided the asset costs less than $20,000.

The message is clear on this one – get out and start spending.

Of course this is subject to the amending legislation passing through Parliament (and in a timely manner). Many of us remember the last time the immediate deduction threshold was changed for small businesses and the confusion that was caused when the amendments were held up in Parliament.

Assets valued at $20,000 or more (which cannot be immediately deducted) can continue to be placed in the small business simplified depreciation pool (the pool) and depreciated at 15% in the first income year and 30% each income year thereafter. The pool can also be immediately deducted if the balance is less than $20,000 over this period (including existing pools).

The 'lock out' laws for the simplified depreciation rules (these prevent small businesses from re-entering the simplified depreciation regime for 5 years if they opt out) will be suspended until 30 June 2017.

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This will allow all small businesses to take advantage of the temporary increase in the deduction threshold.

FBT holiday for portable electronic devices

Date of effect: 1 April 2016

Currently, an FBT exemption can apply to more than one portable electronic device used primarily for work purposes, but only where the devices perform substantially different functions. Applying to businesses with and aggregated turnover of under $2m, this new measure will simplify the rules by removing the requirement for the devices to be substantially different. This should address some of the uncertainty that has arisen when applying the rules to tablets, laptops, phones and other devices that are hard to distinguish from each other in terms of functionality.

Immediate deduction for professional costs setting up a business

Date of effect: Applies from the 2015/16 income year

As previously announced, start-ups will be able to immediately deduct a range of professional expenses required to start up a business – such as professional, legal and accounting advice.

Generally these expenses are deductible over 5 years.

For more info - [Supporting start-ups and entrepreneurship]

CGT relief for changes to small business structures

Date of effect: Applies from the 2015/16 income year

As previously announced, small business with an aggregated turnover under $2m will be able to change their legal structure without triggering CGT. CGT rollover relief is currently available on transfer of business assets from individuals, partnerships and trusts into a company structure but all other entity type changes have the potential to trigger a CGT liability.

It is expected that this would allow a much broader range of restructuring options without triggering CGT. For example, a sole trader may be able to restructure their operations into a trust structure. Bear in mind that other tax issues may still need to be addressed on restructuring a business, particularly transfer duty.

OTHER BUSINESS

GST on digital goods and services

Date of effect: Supplies made on or after 1 July 2017

On 11 May, Treasurer Joe Hockey announced that the Government will target providers such as Netflix to ensure a "level playing field for the suppliers of digital products and services in Australia in relation to the GST."

The draft legislation introduced on Budget night broadens the GST system to digital products and other imported services supplied to Australian consumers by foreign entities in a similar way to equivalent supplies made by Australian businesses.

The measure is expected to generate $350m over 4 years.

This change will result in supplies of digital products, such as streaming or downloading of movies, music, apps, games, e-books as well as other services such as consultancy and professional services receiving similar GST treatment whether they are supplied by a local or foreign supplier.

In some cases the GST liability might shift from the supplier to the operator of an electronic distribution service where those operators have responsibility for billing, delivery and terms and conditions.

The regulations will be amended to allow for a change to the GST registration process for affected entities. Entities will also be able to elect to have limited registration for GST, which will prevent them from accessing input tax credits.

As this legislation seeks to amend the GST, the unanimous agreement of the States and Territories is required.

Who is affected?

Any business that supplies digital products to Australian consumers not currently subject to GST will potentially be affected by this change.

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It will be interesting to see how the Government and ATO ensure compliance with the new measures particularly where many of the foreign suppliers would not typically have a physical presence in Australia.

At a minimum, foreign suppliers would be expected to collect more details from Australian customers to establish their residency status, GST registration status and whether the acquisitions by the customers would qualify for GST credits.

Employee share schemes – further changes

Date of effect: 1 July 2015

The Government is making further technical amendments to the draft legislation enabling reforms to the taxation of employee share schemes. The changes:

- Exclude eligible venture capital investments from the aggregated turnover test and grouping rules (for the start-up concession);
- Provide the CGT discount to employee share scheme interests that are subject to the start-up concession, where options are converted into shares and the resulting shares are sold within 12 months of exercise; and
- Allow the Commissioner of Taxation to exercise discretion in relation to the minimum three-year holding period where there are circumstances outside the employee's control that make it impossible for them to meet this criterion.

A number of other amendments accompany these changes to make employee share schemes more accessible for Australian businesses and their employees.

These changes will take effect with the remainder of the enabling legislation from 1 July 2015 and are estimated to have a small but unquantifiable cost to revenue over the forward estimates period.

GST changes scrapped

The Government had previously announced that it would proceed with an announced but unenacted measure to replace the GST-free treatment of supplies of going concerns and certain supplies of farmland with a reverse charge mechanism. The measure has now been scrapped on the basis that it does not achieve the original intention of reducing compliance costs. This will come as a relief to many as the changes may have had an adverse and unintended stamp duty impact.

R & D capped to $100m

Date of effect: Assessments for income years on or after 1 July 2014

A cap of $100m on the amount of eligible Research & Development (R&D) expenditure has already been introduced. Any expenditure above the cap will receive a lower offset at the company tax rate.

Anti-avoidance and multinationals

Date of effect: Assessments for income years on or after 1 July 2014

The Treasurer confirmed that the Government will not introduce a UK style diverted profits tax or any other additional tax structures to prevent the so called "Double Irish Dutch Sandwich" arrangements to prevent multinationals from moving profits to low taxing environments.

Instead, legislation introduced on Budget night strengthens the existing anti-avoidance provisions in Part IVA. The new law will target approximately 30 companies where:

- The activities of an Australian company or other entity are integral to an Australian customer's decision to enter into a contract;
- The contract is formally entered into with a foreign related party to that entity; and
- The profit from the Australian sales is booked overseas and subject to no or low global tax.

The measures apply only to large multinationals who meet the following thresholds: -

- **Global revenue threshold** - the non-resident entity (or the non-resident's global group) has an annual global revenue in excess of AU$1 bn in the income year in which they operated the scheme.
- **No or low tax jurisdiction condition** - the non-resident (or an entity in their global group) has activities in no or low corporate tax jurisdictions.

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For the multinational anti-avoidance law to apply, it must be reasonable to conclude that the division of activities between the non-resident entity, the Australian entity, and any other related parties has been designed so as to ensure that the relevant taxpayer is not deriving income from making supplies that would be attributable to the permanent establishment in Australia.

Additionally, the relevant taxpayer, who entered into or carried out the scheme, must have done so for the principal purpose or for one of the principal purposes of enabling a taxpayer to obtain a tax benefit, or both to obtain a tax benefit and to reduce other tax liabilities under Australian law (other than income tax) or under a foreign law.

Where a scheme is captured by the new rules, the Tax Commissioner has the power to look through the scheme and apply the tax rules as if the non-resident entity had been making a supply through an Australian permanent establishment. This includes the business profits from the supply that would have been attributable to an Australia permanent establishment and obligations arising (for the relevant taxpayer or another taxpayer) under royalty and interest withholding tax.

The Tax Commissioner will have the power to recover unpaid taxes and issue a fine or "compensating adjustment" of an additional 100% of unpaid taxes plus interest.

Transfer pricing documentation for large multinationals

Plus, from 1 January 2016, the OECD's new transfer pricing documentation standards will be implemented for large global multinationals with global revenues of $1bn or more.

Under the new documentation standards, the ATO will receive the following information on large companies that operate in Australia:

- Country-by-Country Report showing information on the global activities of the multinational, including the location of its income and taxes paid;
- A master file containing an overview of the multinational's global business, its organisational structure and its transfer pricing policies; and
- A local file that provides detailed information about the local taxpayer's intercompany transactions.

Business registration process to be streamlined

Date of effect: Mid 2016

A single online registration site will be implemented in order to streamline the registration of new businesses.

Under the proposed new system, businesses will be able to log onto www.business.gov.au and enter the relevant details once in order to manage a number of business registration requirements.

These include ABN registration, company registration, business name registration, GST registration, PAYG withholding registration, FBT registration, an Australian Business Account as well as an online payment mechanism of registration costs.

SUPERANNUATION

Dying able to access their super earlier

Date of effect: 1 July 2015

After a few horrible cases where terminally ill people could not access their superannuation, the Government is changing the rules to provide some respite.

Currently, patients must have two medical practitioners (including a specialist) certify that they are likely to die within 1 year to gain unrestricted tax free access to their superannuation balance. The Government will change this period to 2 years.

Social Security for superannuants

Date of effect: 1 January 2016

A larger proportion of a superannuant's defined benefit income will be taken into account when applying the relevant social security income test, capping the proportion of income that can be excluded at 10%.

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A defined benefit income stream is a pension paid from a public sector or other corporate defined benefit superannuation fund where the pension paid generally reflects years of service and the final salary of the beneficiary. Under current arrangements, some defined benefit superannuants are able to have a large proportion of their super income excluded from the pension income test.

Recipients of Veterans' Affairs pensions and/or defined benefit income streams paid by military superannuation funds are exempt from this measure.

PENSIONS

Asset test changes

Date of effect: 1 January 2017

As previously announced, the Government will increase the asset test thresholds and the withdrawal rate at which pensions are reduced once the threshold is exceeded.

The taper rate will revert back to the pre 2007 level of $3 (from $1.50).

The maximum value of assets you can hold to qualify for a part pension will also be reduced.

Approximately 91,000 current part pensioners will no longer qualify for the pension and a further 235,000 will have their part pension reduced.

Pensioners who lose pension entitlement on 1 January 2017 as a result of these changes will automatically be issued with a Commonwealth Seniors Health Card or a Health Care Card for those under Age Pension age.

For pensioners with modest assets, the change will increase their pensions.

The value of assets you can have in addition to your family home in order to qualify for a full pension will increase from $202,000 to $250,000 for single home owners and from $286,500 to $375,000 for couple home owners.

Pensioners who do not own their own home will also benefit by an increase in their threshold to $200,000 more than homeowner pensioners. This increases the gap between homeowners and non-homeowners thresholds by more than a third, recognising their higher living costs.

All couples who own their own home with additional assets of less than $451,500 will get a higher pension. Couples who don't own their own home and have asset holdings up to $699,000 in January 2017 will be better off.

For singles the maximum threshold point, below which pensioners will be better off, will be $289,500 for home owners and $537,000 for non-homeowners.

FARMERS

Immediate deductions for fencing and water facilities

Date of effect: For income years on or after 1 July 2016

From 1 July 2016, primary producers will be able to immediately deduct capital expenditure on fencing and water facilities such as dams, tanks, bores, irrigation channels, pumps, water towers and windmills.

Plus all capital expenditure on fodder storage assets such as silos and tanks used to store grain and other animal feed will be deductible over 3 years.

The changes will not be limited to small business entities unlike the other proposed changes to depreciation rates.

Currently, the effective life for fences is up to 30 years, water facilities is 3 years and fodder storage assets is up to 50 years.

INFRASTUCTURE

Developing Northern Australia

Date of effect: 1 July 2015

The Government is very keen for to increase investment by the private sector in infrastructure projects in Northern Australia. A concessional loan facility of up to $5 billion is being established for infrastructure projects, with applications opening from 1 July 2015.

The measure is part of the Government's White Paper on Developing Northern Australia

- More: White Paper - Developing Northern Australia

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INDIVIDUALS

Changes to work related car expenses

Date of effect: From 2015/16 income year

The way work related deductions for car expenses are calculated will change.

The '12% of original value method' and the 'one-third of actual expenses method' will be removed - the Government says they are only used by less than 2% of those who claim work related car expenses.

The 'cents per kilometre method' will be modernised by replacing the three current rates based on engine size with one rate set at 66 cents per kilometre to apply for all motor vehicles, with the Tax Commissioner responsible for updating the rate in following years. The 'logbook method' of calculating expenses will be retained. These changes will not affect leasing and salary sacrifice arrangements.

THE ECONOMY IN BRIEF

- Deficit of $35.1 bn in 2015/2016 reducing to $6.9 bn by 2018/2019
- Real GDP expected to grow by a modest 2.75% in 2015/2016, which is 0.25% slower than expected 12 months ago.
- Stronger non-mining business investment expected to drive growth in 2016/2017 to 3.25%
- Unemployment rate currently better than predicted at 6.25% but expected to push higher in 2015/2016 before falling again.
- Tax receipts downgraded by $52 billion since the 2014 Budget - $20 bn a result of the iron ore spot price almost halving:
    1. Iron ore investments and exports directly contributed 15% to economic growth over the last decade
    2. Australia accounts for 1/3 or world iron ore production
- Australia's major trading partners are expected to grow by 4.5% in 2015 and 2016.
- Total exports expected to increase by 5% in 2015/2016 and 6.5% in 2016/2017
- Non-mining business investment has increased but remains uncommitted

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