National Tax & Accountants' Association Ltd

O'BRIEN accountants
obrienaccountants.com

2013/14 Budget

1. Changes effective 1 July 2012 (i.e., 2012/13 income year)

1.1 Medicare levy low income thresholds

For the 2012/13 income year, the Medicare Levy low income thresholds will be as follows:

- Individuals $20,542 (previously $19,404)
- Families $33,693 (previously $32,743)

The additional amount of threshold for each dependent child or student will also be increased to $3,094 (previously $3,007). The Medicare levy threshold for single pensioners eligible to claim the new Seniors and Pensioners Tax Offset has been increased to $32,279 for the 2012/13 income year.

1.2 Superannuation – reduction of higher tax concessions for contributions of very high income earners – minor amendments

The government previously announced (i.e., in the 2012/13 Budget) that from 1 July 2012, broadly, individuals with 'income' greater than $300,000 will have their concessional contributions taxed at 30% and not at 15%. Refer to the Budget measure titled *Superannuation — reduction of higher tax concession for contributions of very high income earners*.

The government will make minor amendments to the above measure, which will also be effective from 1 July 2012. These amendments are estimated to have a gain to revenue of $25.2 million over the next four years.

These minor amendments include the following:

- Using a similar definition of 'income' for the measure to that used for calculating whether an individual is liable to pay the Medicare levy surcharge (i.e., 'income for surcharge purposes', which broadly includes a taxpayer's taxable income, reportable fringe benefits total, reportable superannuation contributions and any total net investment loss).
- Refunding former temporary residents the tax paid under the measure as they effectively do not receive any concessional tax treatment on their contributions to superannuation as a result of the operation of other rules.

Editor: The government released exposure draft legislation on 1 May 2013 that provides further details of the above measure, which is available on the Treasury website.

2. Changes effective 1 July 2013 (i.e., 2013/14 income year)

2.1 Phasing out the net medical expenses tax offset ('NMETO')

The government will phase out the NMETO with transitional arrangements for those currently claiming the offset, as follows:

- Only those taxpayers who claim the NMETO for the 2012/13 income year will be eligible for the NMETO for the 2013/14 income year if they have eligible out of pocket medical expenses above the relevant thresholds. Similarly, only those who claim the NMETO in 2013/14 may be eligible for the NMETO in 2014/15.
- The NMETO will continue to be available for taxpayers for out of pocket medical expenses relating to disability aids, attendant care or aged care expenses until 1 July 2019 when DisabilityCare Australia (i.e., the national disability insurance scheme) is fully operational and aged care reforms have been in place for several years.

2.2 Superannuation – a fairer excess contributions tax system

As previously announced, the government will reform the system of excess contributions tax ('ECT') in respect of excess concessional contributions made from 1 July 2013, by allowing individuals to withdraw such excess contributions from their superannuation fund. Any such excess concessional contributions will then be taxed at an individual's marginal tax rate, plus an interest charge to recognise that the tax on excess contributions is collected later than normal income tax.

This measure is estimated to cost the government $60.0 million over the next four years.

Under the current ECT arrangements, excess concessional contributions are taxed at the top marginal tax rate (46.5%) regardless of the personal marginal tax rate faced by the individual. In addition, individuals are only able to withdraw excess concessional contributions the first time they make an excess contribution after 1 July 2011, and only where that excess does not exceed $10,000.

Further information on this measure can be found in the joint press release of 5 April 2013 issued by the Treasurer and the Minister for Financial Services and Superannuation.

2.3 Superannuation – higher concessional contributions cap

As previously announced, the government will simplify the design and administration of the proposed higher concessional contributions cap, by providing a $35,000 concessional cap to anyone who meets certain age requirements, as follows:

- From 1 July 2013 (i.e., from the 2013/14 income year), people aged 60 or more will be able to access the higher $35,000 concessional contributions cap; and
- From 1 July 2014 (i.e., from the 2014/15 income year), people aged 50 or more will be able to access the higher $35,000 concessional contributions cap.

The new higher cap will **not** be limited to individuals with superannuation balances below $500,000 in light of feedback from the superannuation sector that this requirement would be difficult to administer. When the general concessional cap reaches $35,000 through indexation, it will apply to all individuals from that time forward. The general concessional cap is expected to reach $35,000 from 1 July 2018 based on current forecasts.

The simplification is estimated to save the government $366.1 million over the next four years.

Further information on this measure can be found in the joint press release of 5 April 2013 issued by the Treasurer and the Minister for Financial Services and Superannuation.

2.4 Protecting the corporate tax base from erosion and loopholes – preventing 'dividend washing'

From 1 July 2013, the government will close a loophole that enables sophisticated investors to engage in 'dividend washing', which enables investors to receive two sets of franking credits for the same parcel of shares. This is outside the intent of the dividend imputation system.

This measure will ensure that investors engaging in 'dividend washing' will only be entitled to use one set of franking credits.

The government will consult on the development of the legislation.

This measure is estimated to generate a revenue gain of $60.0 million over the next four years.

2.5 Income tax exemption for compensation for legal advice

From 1 July 2013, the government will provide an income tax exemption for compensation provided for legal advice to beneficiaries under the *Military Rehabilitation and Compensation Act 2004* ('MRC Act').

This measure responds to the Review of Military Compensation Arrangements and extends the existing income tax exemption for financial advice under the MRC Act.

This measure will have no revenue impact over the forward estimates period.

2.6 Research and development ('R&D') tax incentive

From 1 July 2013, the government will better target support for research and development ('R&D') by limiting access to the R&D tax incentive so that it only applies to companies with annual aggregate Australian turnover of less than $20 billion. This measure is estimated to save the government $1.1 billion over the next four years.

Companies with a turnover of $20 billion or more (that will no longer be able to access the R&D tax offset) will still be able to claim deductions for the R&D expenditure under general tax law provisions.

3. Changes effective 1 July 2014 (i.e., 2014/15 income year)

3.1 Increase in the Medicare levy by 0.5%

As previously announced, from 1 July 2014, the government will increase the Medicare levy by 0.5% from 1.5% to 2% to provide funding for DisabilityCare Australia (i.e., the national disability insurance scheme). This increase is estimated to increase revenue by $11.4 billion over the next four years and by $20.4 billion over the next six years. This will be dedicated to DisabilityCare Australia to provide certainty to Australians with a disability, their families and their carers.

Low-income earners will continue to receive relief from the Medicare levy through the low income thresholds for singles, families, seniors and pensioners. The current exemptions from the Medicare levy will also remain in place. The revenue raised by the increase in the Medicare levy will be invested in a new fund — the DisabilityCare Australia Fund ('the Fund') — to be drawn on for expenditure directly related to DisabilityCare Australia. It is estimated that the Fund will generate $467.4 million in earnings over the forward estimates period.

3.2 Self-education expense claims – $2,000 annual deduction cap

As previously announced, from 1 July 2014, the government will introduce a $2,000 annual cap on work-related self-education expense deductions. This measure is estimated to save the government $514.3 million over the next four years.

Taxpayers will be able to claim a tax deduction of up to $2,000 of education expenses in an income year. Deductible education expenses are costs incurred in undertaking a course of study or other education activity, such as conferences and workshops, and include tuition fees, registration fees, student amenity fees, textbooks, professional and trade journals, travel and accommodation expenses, computer expenses and stationery, where these expenses are incurred in the production of the taxpayer's current assessable income.

Employers are generally not liable for fringe benefits tax for education and training they provide or fund for their employees, in order to support employers investing in the skills of their workers. This treatment will be retained, unless an employee salary sacrifices to obtain these benefits.

Further information on this measure can be found in the press release of 13 April 2013 issued by the Treasurer. The government will consult closely on this proposal and a discussion paper will be released in late May 2013 as part of the consultation process.

3.3 Superannuation – reforming the tax exemption for earnings on assets supporting income streams (e.g., superannuation pensions)

As previously announced, from 1 July 2014, the government will limit the tax exemption for earnings on superannuation assets supporting retirement income streams, broadly as follows:

- Earnings on superannuation assets supporting income streams (e.g., superannuation pensions) will be tax-free up to $100,000 per year for each individual; and
- Earnings above the $100,000 threshold will be taxed at the same concessional rate of 15% that applies to earnings in the accumulation phase.

Under this measure, the $100,000 threshold will be indexed to the CPI and will rise in $10,000 increments. Furthermore, for assets that were purchased before 5 April 2013, the measure will only apply to capital gains that accrue after 1 July 2024. Capital gains that are not exempt, may still be eligible for the 33⅓% discount, and will therefore be effectively taxed at a rate of 10%.

This measure is estimated to save the government $313.0 million over the next four years.

This measure will also apply to defined benefit funds, so that members of such funds will face a corresponding decrease in their tax concessions in the retirement phase.

Further information on this measure can be found in the joint press release of 5 April 2013 issued by the Treasurer and the Minister for Financial Services and Superannuation.

3.4 Relief for farmers – FMD thresholds increased

From 1 July 2014, the non-primary production threshold for FMDs will be increased from $65,000 to $100,000. This means primary producers will be able to claim deductions for FMDs where their non-primary production income does not exceed $100,000.

4. Other Budget announcements

4.1 Deferral of 2015/16 personal tax cuts – Clean energy future

The government will defer the personal income tax cuts that were to commence from 1 July 2015, which were previously legislated as part of the household assistance package to compensate for the expected impact of the carbon price. These income tax cuts have already raised the tax-free threshold from $6,000 to $18,200 from 1 July 2012 (i.e., from the 2012/13 income year), and were to raise the tax-free threshold to $19,400 from 1 July 2015 (i.e., from the 2015/16 income year).

The rationale behind this proposed deferral that there will be no additional anticipated increase in costs to households in 2015/16 with a lower carbon price forecast. This deferral is estimated to save the government $1.5 billion over the next four years.

There will be **no** change to the tax cuts that applied from the 2012/13 income year.

4.2 Improving the integrity of the foreign resident CGT regime

The government will make a number of amendments to improve Australia's foreign resident CGT regime. Two technical amendments to the regime will apply to CGT events with effect from 7.30pm (AEST) 14 May 2013 and a new withholding system to support the regime will apply from 1 July 2016.

The amendments will be made to the principal asset test to ensure that indirect Australian real property interests (e.g., certain shares) are taxable if disposed of by a foreign resident. In particular, the amendments will:

- remove the ability to use transactions between members of the same consolidated group to create and duplicate assets; and
- value mining, quarrying or prospecting information and goodwill together with the mining rights to which they relate.

Also, from 1 July 2016, a 10% non-final withholding tax will apply to the disposal by foreign residents of certain taxable Australian property. Broadly, where a foreign resident disposes of certain taxable Australian property, the purchaser will be required to withhold and remit to the ATO, 10% of the proceeds from the sale. This withholding regime will **not** apply to residential property transactions under $2.5 million or to disposals by Australian residents.

4.3 Low income superannuation contribution – technical amendment

The government will amend the eligibility criteria for the low income superannuation contribution ('LISC') to now pay individuals with an entitlement below $20. Previously, the LISC was not paid if it would be less than $20. Entitlements under $10 will be rounded up to $10.

The LISC effectively refunds, up to $500 a year, the tax paid on superannuation concessional contributions for people with incomes up to $37,000.

4.4 Removal of higher education debt repayment discounts

From 1 January 2014, the government will remove the current discounts applying to up-front and voluntary payments made under the Higher Education Loan Program ('HELP').

Currently, two discounts are available. These are a 10% discount for students who elect to pay their student contribution up-front and a 5% bonus on voluntary payments of $500 or more, which are made to the ATO.

4.5 Tax agent services – online registration for financial advisors

The government has announced that they will provide $1.4 million over four years to provide for a single, online registration for financial advisors registered with ASIC who also need to be registered with the ATO as tax agents from 30 June 2013.

4.6 GST – Allowing businesses in a net refund position to continue to use the GST instalment system

The government has made revisions to the 2011/12 Budget measure *GST — providing businesses in a net refund position with access to the GST instalment system* to only allow those businesses already using the GST instalment system to continue to use it if they move into a net refund position.

These revisions address concerns that the original measure could present a revenue risk. This measure will have effect from the date of Royal Assent of the enabling legislation.

4.7 Measures for a more sustainable family payments system

The government has announced various measures to the existing family payments system. Some of the main measures include the following:

- **Abolition of the Baby Bonus** – From 1 March 2014, the Baby Bonus will no longer be available. Instead, families eligible for FTB Part A will receive an additional loading on their family payments when they have a new baby (if they are not accessing the Government's Paid Parental Leave scheme). The extra payments will total $2,000 for the first child (and all multiple births) and $1,000 for subsequent children.
- **Continuing indexation pauses** – Indexation pauses on higher income limits will continue for a further three years until 1 July 2017. Broadly, this means that the income limit for FTB Part B, the dependency tax offsets, the Paid Parental Leave and Dad and Partner Pay schemes will remain at $150,000.
- **Change to the eligibility age for FTB Part A** – From 1 January 2014, FTB Part A will only be paid to families up to the end of the calendar year that their child, 16 or over, completes school. Youth Allowance will continue to be available for eligible young people who need financial support for post-secondary study or while they are looking for work.
- **Reducing the claim period for family assistance lump sum claims** – Families that choose to wait until the end of the financial year to claim their FTB entitlement or Child Care Benefit will now have a grace period of one year instead of two years. This change will start for the 2012/13 entitlement year, meaning families will have 12 months from the end of the year (e.g., until 30 June 2014 in respect of the 2012/13 entitlement year) to claim their payments.
- **Changes to the rules for receiving payments overseas** – From 1 July 2014, the length of time that families can be temporarily overseas and continue to receive family payments will reduce from three years to one year.

4.8 Superannuation – transfer of lost member accounts to the ATO

The government will protect the real value of more lost superannuation accounts by increasing the threshold below which small inactive accounts and the accounts of uncontactable members are required to be transferred to the ATO. The threshold will be increased from $2,000 to $2,500 from 31 December 2015, and then to $3,000 from 31 December 2016.

Together with the strategies the ATO has in place for reuniting lost members with their super, the measure is expected to see a further reduction in the number and value of lost accounts. Individuals can reclaim their lost superannuation accounts transferred to the ATO at any time.

4.9 Tightening certain aspects of Australia's international tax arrangements

From 1 July 2014, the government will make certain changes in order to tighten and improve several aspects of Australia's international tax arrangements. In particular, these changes will involve:

- tightening and improving the effectiveness of the thin capitalisation rules including changing all safe harbour limits and extending a worldwide gearing test to inbound investors;
- increasing the *de minimis* threshold from $250,000 to $2 million of debt deductions which will reduce compliance costs for small business; and
- removing the provision allowing a tax deduction for interest expenses incurred in deriving certain exempt foreign income

4.10 Research and Development (R&D) tax incentive – quarterly credits

The government will allow eligible entities with turnover below $20 million to claim the R&D refundable tax offset on a quarterly basis. The measure will apply for each quarter commencing on or after 1 January 2014.

Currently, companies have to wait until their end of year assessment to realise the value of the offset. This measure will allow for the advanced payment of the 45% refundable tax offset on a quarterly basis to improve cash flow and enhance incentives for small innovative companies to invest in R&D activities.

4.11 Additional ATO funding for compliance activities

The government has announced that it will provide the following levels of funding to bolster the ATO's compliance activities:

(a) **ATO trust taskforce** – $67.9 million over four years to undertake compliance activity in relation to taxpayers who have been involved in egregious tax avoidance and evasion using trust structures. In particular, the ATO will target the exploitation of trusts used to conceal income, mischaracterise transactions, artificially reduce trust income amounts and underpay tax.

(b) **Third party reporting and data matching** – $77.8 million over four years to improve compliance and provide a level playing field for Australian taxpayers by expanding data matching with third party information. This will be used to establish new and strengthen existing reporting systems for:

- taxable government grants and specified other government payments;
- sales of real property, shares (including options and warrants), and units in managed funds;
- sales through merchant debit and credit services;
- managed investment trust and partnership distributions, company dividend and interest payments; and
- transactions reported to the ATO by the Australian Transaction Reports and Analysis Centre.

4.12 Establishment of a Tax System Advisory Board

The Government will establish a Tax System Advisory Board within the ATO to advise the Commissioner and the ATO Executive Committee on the strategic direction, culture, organisation, management, compliance planning, staff profile and information technology plans at the ATO.