Client Information Newsletter
- Tax & Super

LBW & PARTNERS
Chartered accountants & Business Advisers

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Federal Budget 2016 wrap up

The Budget has a few sweeteners, but not so much that will turn anyone hyperactive.

About this newsletter

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

T: 02 9411 4866 | M: 0419 506 806
E: george@lbw.com.au

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The welcome news is that the turnover threshold for classifying a "small business entity" will increase from $2 million to $10 million. This will allow a further 90,000 to 100,000 businesses to access a range of small business tax concessions, such as the $20,000 instant asset write-off, use of small business pools, and concessional PAYG instalments.

For incorporated small businesses, the 28.5% corporate tax rate from the 2015-16 Federal Budget has been reduced to 27.5%, with eligibility increased to this $10 million threshold. However, for unincorporated businesses, the eligibility turnover threshold will only increase from $2 million to $5 million for access to the small business tax discount. The offset will be gradually increased from 5% to 16% over the next 10 years but still capped at $1,000 per eligible individual.

Disappointingly however, the current $2 million threshold will be retained for access to the highly valuable small business CGT concessions. This undoubtedly creates an administrative headache, but be assured that we are here to help you manage this.

On the super front, the government has performed a “Robin Hood” by reducing the concessions available to the wealthy in favour of giving incentives to parents and low income earners. This will be achieved by replacing the Low Income Super Contribution scheme with a Low Income Superannuation Tax Offset (more details below), and measures to allow people who have missed work to make top-up payments when back at work.

Small business

INCREASING THE SMALL BUSINESS ENTITY TURNOVER THRESHOLD

The government will increase the small business entity turnover threshold from $2 million to $10 million from 1 July 2016. The current $2 million threshold will be retained for access to the small business CGT concessions. The eligibility threshold for the unincorporated small business tax discount will be raised to $5 million.

The government anticipates that an additional 90,000 to 100,000 businesses will be able to access the small business concessions because of the increase in the threshold to $10 million. A selection of concessions available for small business and eligible thresholds is laid out in the table below.

INCREASING THE UNINCORPORATED SMALL BUSINESS TAX DISCOUNT

The government will increase the tax discount for unincorporated small businesses incrementally from the current 5% to 16% over 10 years.

This will coincide with staggered cuts in the corporate tax rate to 25%. The current cap of $1,000 per individual for each income year will be retained.

The discount is available to individual taxpayers with business income from an unincorporated small business entity. Currently the aggregated turnover threshold of the small business is $2 million. The government intends to increase this threshold to $5 million.

Summary: Selected small business concessions and eligible thresholds (from 1 July 2016)

Aggregated annual turnover	$20,000 instant asset write-off	Small business CGT concessions	Company tax rate reduction	Discount for unincorporated entities	Small business pool	Immediate deduction for certain start-up costs
< $2 m	Yes	Yes	Yes	Yes	Yes	Yes
< $5 m	Yes	No	Yes	Yes	Yes	Yes
< $10 m	Yes	No	Yes	No	Yes	Yes

General business

REDUCING THE COMPANY TAX RATE TO 25%

The government will reduce the company tax rate to 25% over 10 years. The rate will firstly be reduced to 27.5%, and then it will be reduced progressively to 25% in 2026-27. Dividends will be frankable in line with the rate of tax paid by the company.

The initial 27.5% rate will be implemented progressively from 2016-17 to 2022-23 based on the company's annual aggregated turnover:

Annual aggregated turnover threshold	Income year in which the 27.5% rate will apply
Less than $10 million	2016-17
$25 million	2017-18
$50 million	2018-19
$100 million	2019-20
$250 million	2020-21
$500 million	2021-22
$1 billion	2022-23

Once all companies are at a rate of 27.5%, the rate will be progressively reduced to 25% in 2026-27:

Income year	Tax rate
2022-23	27.5%
2023-24	27.5%
2024-25	27%
2025-26	26%
2026-27	25%

AMENDMENTS TO DIVISION 7A

The government intends to make targeted amendments to improve the operation and administration of Division 7A (that is, the deemed dividend regime that applies to private companies). The amendments will apply from 1 July 2018 and will include:

- a self-correction mechanism for inadvertent breaches of Division 7A
- appropriate safe harbour rules to provide certainty
- simplified Division 7A loan arrangements; and
- a number of technical adjustments.

Individual tax

RAISING THE 32.5% PERSONAL INCOME TAX THRESHOLD

The government will increase the 32.5% personal income tax threshold from $80,000 to $87,000 from 1 July 2016. This measure will reduce the marginal tax rate on incomes between $80,000 and $87,000 from 37% to 32.5%.

It is anticipated that this change will prevent around 500,000 taxpayers from moving into the 37% tax bracket. It will ensure that the average full-time wage earner will not move into the second highest tax bracket in the next three years.

Superannuation

CONCESSIONAL CONTRIBUTIONS CAP WILL BE REDUCED

The annual cap on concessional superannuation contributions will be reduced to $25,000 from 1 July 2017. There will be one cap for all taxpayers irrespective of their age. The cap is presently dependent on the age of the taxpayer as on 30 June of the previous financial year:

- under age 49 - $30,000
- aged 49 and over - $35,000

CATCH-UP CONCESSIONAL SUPERANNUATION CONTRIBUTIONS WILL BE ALLOWED

From 1 July 2017, individuals will be allowed to make additional concessional contributions where they have not reached their concessional contributions cap in previous years. Access to the unused cap amounts will be limited to individuals with a superannuation balance less than $500,000. Amounts are carried forward on a rolling basis for a period of five consecutive years. Only unused amounts accrued from 1 July 2017 can be carried forward.

The government has recognised that annual concessional caps can limit the ability of people with interrupted work patterns to accumulate superannuation balances commensurate with those who do not take breaks from the workforce. Such individuals would include stay-at-home parents and/or carers. Allowing them to carry forward their unused concessional cap provides them with the opportunity to “catch up” if they have the capacity to do so, and choose to do so.

The measure will also apply to members of defined benefit schemes, although the Government said it will undertake consultation in this regard.

HARMONISING CONTRIBUTION RULES FOR THOSE AGED 65 TO 74

From 1 July 2017, existing restrictions on people aged 65 to 74 from making superannuation contributions for their retirement will be removed. People under the age of 75 will no longer have to satisfy a work test and will be able to receive spouse contributions.

This measure is intended to simplify the superannuation system for older Australians and allow them to increase their retirement savings, especially from sources that may not have been available to them before retirement, including from downsizing their home.

Currently a work test applies which requires individuals aged 65 or over to be in gainful employment for at least 40 hours within 30 consecutive days in a financial year before their super fund can accept any contributions for them. Therefore the introduction of this measure will effectively make the work test irrelevant past 1 July 2017.

PERSONAL SUPERANNUATION CONTRIBUTIONS WILL BE TAX DEDUCTIBLE

From 1 July 2017, all individuals up to age 75 will be able to claim an income tax deduction for personal superannuation contributions. This effectively allows all individuals, regardless of their employment circumstances, to make concessional superannuation contributions up to the concessional cap.

Beneficiaries of this change include:

- individuals who are partially self-employed and partially wage and salary earners; and
- individuals whose employers do not offer salary sacrifice arrangements.

Currently, there is a “maximum earnings as an employee” condition that needs to be satisfied in order to claim a deduction for personal superannuation contributions. Broadly, less than 10% of the total of a taxpayer’s assessable income, reportable fringe benefits and reportable superannuation contributions may be in relation to an eligible employment activity. This essentially means that many self-employed professionals who work independently but are deemed employees under the superannuation guarantee law cannot make further voluntary deductible contributions to super.

A NEW LIFETIME CAP FOR NON-CONCESSIONAL SUPERANNUATION CONTRIBUTIONS

The government will introduce a $500,000 lifetime non-concessional contributions cap. This lifetime cap will be available to all Australians up to and including the age of 74. For taxpayers aged 75 and more existing rules will remain – only mandated contributions can be accepted by their superannuation fund.

The cap will take into account all non-concessional contributions made on or after 1 July 2007. This is the time from which the ATO has reliable contributions records. The measure will commence at 7.30pm (AEST) on 3 May 2016.

Contributions made before commencement cannot result in an excess. However, excess contributions made after commencement will need to be removed, otherwise penalty tax will apply. The cap will be indexed to average weekly ordinary time earnings. The cap will replace the existing annual non-concessional contributions caps of $180,000 a year (or $540,000 every three years for individuals aged under 65).

Existing arrangements in respect of CGT cap (set at $1.415 million for 2016-17 financial year) will be retained. Effectively this means that small business taxpayers eligible for CGT concessions can place proceeds from realising their business into the superannuation system.

IMPROVING SUPERANNUATION BALANCES OF LOW INCOME SPOUSES

From 1 July 2017, the Government will increase access to the low income spouse superannuation tax offset by raising the income threshold for the low income spouse from $10,800 to $37,000.

A NEW LOW INCOME SUPERANNUATION TAX OFFSET (LISTO)

The government will introduce a Low Income Superannuation Tax Offset (LISTO) to reduce tax on super contributions for low income earners, from 1 July 2017. The LISTO is a non-refundable tax offset for superannuation funds, based on the tax paid on concessional contributions made on behalf of low income earners. The offset will be capped at $500.

The LISTO will apply to fund members with adjusted taxable income up to $37,000 that have had a concessional contribution made on their behalf. This measure is to ensure that low income earners do not pay more tax on savings placed into superannuation than on income earned outside of superannuation.

The measure essentially extends the operation of low income superannuation contribution (LISC) under another name. The incumbent LISC is set to expire on 30 June 2017.

Transitioning to retire?

The tax exemption on earnings of assets supporting a TRIS will be removed from 1 July 2017

HIGH INCOME SUPER CONTRIBUTION TAX THRESHOLD WILL BE REDUCED

From 1 July 2017, the threshold at which high income earners pay additional 15% contributions tax on concessional contributions (known as Division 293) will be reduced from $300,000 to $250,000. This measure is designed to improve sustainability and fairness in the superannuation system by limiting the effective tax concessions provided to high income individuals.

PENSION PHASE MEASURES

Introducing a new $1.6 million superannuation transfer balance cap

The government will introduce a $1.6 million transfer balance cap on the total amount of accumulated superannuation an individual can transfer into the retirement phase. This cap will take effect on 1 July 2017. Subsequent earnings on these balances will not be restricted.

Where an individual accumulates amounts of more than $1.6 million, they will be able to maintain this excess amount in an accumulation phase account, where earnings will be taxed at 15%.

This cap will limit the extent to which the tax-free benefits of retirement phase accounts can be used by high wealth individuals. It will effectively force funds in excess of $1.6 million either to remain in accumulation phase with investment earnings taxed at 15% or to be taken out of the superannuation system completely if members wish to do so.

Members already in the retirement phase with balances above $1.6 million will be required to reduce their balance to $1.6 million by 1 July 2017. Excess balances may be converted to superannuation accumulation phase accounts.

Transferred amounts exceeding the $1.6 million cap (including earnings on these excess transferred amounts) will be taxed, similar to the tax treatment that applies to excess non-concessional contributions. The amount of cap space remaining for a member seeking to make more than one transfer into a retirement phase account will be determined by apportionment.

Commensurate treatment for members of defined benefit schemes will be achieved through changes to the tax arrangements for pension amounts over $100,000. However the government said it will undertake consultation on the implementation of this measure.

Transition to Retirement Income Streams

The government will remove the tax exemption on earnings of assets supporting Transition to Retirement Income Streams (TRIS) from 1 July 2017. Currently, earnings on superannuation balances that support a TRIS pension are exempt from income tax of 15% applicable to investment earnings in the accumulation phase

The government will also remove a rule that allows individuals to treat certain superannuation income stream payments as lump sums for tax purposes. These measures are expected to remove the attractiveness of TRIS pensions as a tax planning device.

SUPERANNUATION DEATH BENEFITS: REMOVING THE ANTI-DETRIMENT PROVISION

From 1 July 2017, the anti-detriment provision will be removed. This can effectively result in a refund of a member's lifetime super contributions tax payments into an estate, where the beneficiary is the dependant (spouse, former spouse or child) of the member. According to the government, currently this provision is inconsistently applied by super funds.

Removing the anti-detriment provision will better align the treatment of lump sum death benefits across all super funds and the treatment of bequests outside of super. Lump sum death benefits to dependants will remain tax free.

Other measures

GST WILL APPLY TO LOW VALUE IMPORTS

From 1 July 2017, the GST will apply to low value goods imported by consumers, although no mention was made as to what the threshold value may be. The intent of this measure is so that low value goods imported by consumers will face the same GST regime as goods sourced domestically.

Overseas suppliers that have an annual turnover of $A75,000 or more will be required to register for GST and remit GST for low value goods supplied to Australian consumers. The arrangements will be reviewed after two years to ensure they are operating as intended and to take account of any international developments. Note however that this change will require the unanimous agreement of the states and territories.

LARGE MULTINATIONALS – INTEGRITY MEASURES

There will be a new tax aimed at large multinational corporations that artificially divert profits from Australia, from 1 July 2017. A 40% tax on “diverted profits” will apply where the company shifts profits offshore through arrangements that exhibit certain characteristics. It has been dubbed the “Google” tax by various media outlets.

The measure will apply to companies with global revenue of $1 billion or more. Companies with Australian revenue of less than $25 million will be exempt, unless they are artificially booking their revenue offshore. ■