2015/16 Budget

1. Changes effective Budget Night – 7.30pm (AEST) 12 May 2015

1.1 Expanding accelerated depreciation for small business – immediate write-off and small business pool

The government will significantly expand accelerated depreciation for small businesses. It will do this by allowing small businesses with aggregate annual turnover of less than $2 million to immediately deduct assets they start to use or install ready for use, provided the asset costs **less than $20,000** (currently, an immediate write-off is generally available for assets costing less than $1,000). This will apply for assets acquired and installed ready for use between 7.30pm (AEST) 12 May 2015 and 30 June 2017.

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 government will also suspend the current 'lock out' laws for the simplified depreciation rules until 30 June 2017. Currently, these 'lock out' rules prevent small businesses from re-entering the simplified depreciation regime for five years, if they opt out.

From 1 July 2017, the thresholds for the immediate depreciation of assets and the value of the pool will revert back to existing arrangements (which are currently based on a 'less than $1,000' threshold).

2. Changes effective 1 July 2015 (i.e., 2015/16 income year)

2.1 Tax cuts for small business – 1.5% tax cut for small companies and 5% discount on income tax payable for unincorporated small business activity

From the 2015/16 income year, the government will deliver a tax cut to all small businesses:

(a) **Reduction in company tax rate** – The company tax rate will be reduced to 28.5% (i.e., a reduction of 1.5%) for companies with aggregated annual turnover of less than $2 million. Companies with an aggregated annual turnover of $2 million or above will continue to be subject to the current 30% rate on all their taxable income.

Note that, the current **maximum franking credit rate** for a distribution will **remain at 30%** for all companies, maintaining the existing arrangements for investors, such as self-funded retirees.

(b) **5% discount on tax payable for other taxpayers** – Individual taxpayers with business income from an unincorporated business that has an aggregated annual turnover of less than $2 million will be eligible for a small business tax discount. The discount will be 5% of the income tax payable on the business income received by an unincorporated small business entity. The discount will be capped at $1,000 per individual for each income year, and will be delivered as a tax offset.

2.2 Claiming car expense deductions – modernising the existing car expense claim methods

Currently, an individual (or a partnership which includes at least one individual partner) can claim car expense deductions in respect of a car owned or leased (e.g., by the individual) using one of the four methods in Division 28 of the ITAA 1997 (i.e., the 'cents per km method', the '12% of original value method', the 'one-third of actual expenses method' or the 'log book method').

From the 2015/16 income year, the government will modernise the methods of calculating work-related car expense deductions, as follows:

- The '12 per cent of original value method' and the 'one-third of actual expenses method' (which are used by less than 2% of those who claim work-related car expenses) will be removed.
- The 'cents per kilometre method' will be modernised by replacing the three current (cents per kilometre) rates based on engine size, with one rate set at 66 cents per kilometre (in respect of all cars). The Commissioner will be responsible for updating the rate in following years.

2.3 Better targeting of Zone Tax Offset ('ZTO') to exclude 'fly-in fly-out' and 'drive-in drive-out' workers ('FIFO/DIDO workers')

The ZTO is a concessional tax offset available to individuals in recognition of the isolation, uncongenial climate and high cost of living associated with living in identified locations. Eligibility for the ZTO is based on defined geographic zones.

Currently, to be eligible for the ZTO, a taxpayer must reside or work in a specified remote area for more than 183 days in an income year. It is estimated that around 20% of all claimants do **not** actually live full-time in the relevant zone. Many of these are FIFO/DIDO workers who do **not** face the same challenges of remote living that the ZTO was designed to address.

From 1 July 2015, the government will exclude FIFO/DIDO workers from the ZTO where their normal residence is not within a particular 'zone'. Furthermore, for those FIFO/DIDO workers whose normal residence is in one zone, but who work in a different zone, they will retain the ZTO entitlement associated with their normal place of residence.

2.4 Immediate deduction for professional expenses on commencing a new business

Currently, some professional costs associated with commencing a new business (i.e., black hole expenditure) are deducted over a five-year period under S.40-880 of the ITAA 1997.

From 1 July 2015, the government will allow businesses to claim an immediate write-off for a range of professional expenses associated with starting a new business, such as professional, legal and accounting advice.

2.5 Release of superannuation for terminal medical condition – relaxing the release criteria

Broadly, before an individual with a terminal medical condition can currently access their preserved superannuation benefits (generally as a tax-free lump sum), two registered medical practitioners (including a specialist) must certify, jointly or separately, that the person is likely to die within a one-year period.

From 1 July 2015, the government will extend access to superannuation for people with a terminal medical condition by extending the above certification period (i.e., the period within which the individual is likely to die) to two years. This will give terminally ill patients earlier access to their superannuation entitlements.

3. Changes effective 1 July 2016 (i.e., 2016/17 income year)

3.1 CGT roll-over relief for changes to entity structure

CGT roll-over relief is currently available for individuals who incorporate, but other entity type changes have the potential to trigger a CGT liability. From 1 July 2016, the government will allow small businesses with an aggregated annual turnover of less than $2 million to change legal structure without attracting a CGT liability at that point. This measure recognises that new small businesses might choose an initial legal structure that they later find does not suit them when the business is more established.

3.2 Accelerated depreciation for primary producers

Currently, the effective life for fences is up to 30 years, water facilities is three years and fodder storage assets is up to 50 years. For income years commencing **on or after 1 July 2016** (i.e., from the 2017 income year), the government will allow all primary producers to:

- **immediately deduct** capital expenditure on fencing and water facilities such as dams, tanks, bores, irrigation channels, pumps, water towers and windmills; and
- depreciate all capital expenditure on fodder storage assets such as silos and tanks used to store grain and other animal feed **over three years**.

3.3 Transition period to apply new tax system for managed investment trusts ('MITs')

By way of background, the former government announced that a new tax system was to be put in place for MITs. Some features of the proposed system were the introduction of an elective "attribution" system of taxation to replace the present entitlement system and the introduction of a 5% cap to deal with "over or under" distributions so that trusts are not required to reissue statements and investors are not required to revisit tax returns.

This proposed system was set to apply from 1 July 2011, but this application date has been deferred three times, most recently to 1 July 2015.

The 2015/16 Federal Budget confirms the current government's intention to proceed with the implementation of a new tax system for MITs with a twelve month transition period. The modernised tax rules will now apply **from 1 July 2016** (i.e., the 2017 income year), although MITs can choose to apply them from the earlier start date of 1 July 2015.

3.4 Changes to residency rules for temporary working holiday makers

Currently, a working holiday maker can be treated as a resident for tax purposes if they satisfy the tax residency rules, typically that they are in Australia for more than six months (unless it can be established that the person's usual place of abode is outside Australia and that there is no intention to take up residence in Australia). This means they are able to access the tax-free threshold, the low income tax offset and the lower tax rate of 19% for income above the tax-free threshold up to $37,000.

The government will change the tax residency rules **from 1 July 2016** (i.e., the 2017 income year) to treat most people who are temporarily in Australia for a working holiday as **non-residents** for tax purposes, regardless of how long they are here. This means they will be taxed at 32.5% from their first dollar of income (up to $80,000).

4. FBT announcements

4.1 Relaxing the FBT exemption for work-related electronic devices

Currently, an FBT exemption under S.58X of the FBT Act applies in respect of eligible work-related items (e.g., a portable electronic device, an item of computer software, and a tool of trade). In respect of a portable electronic device (e.g., a laptop computer), the FBT exemption generally does **not** apply to multiple items provided by an employer to an employee in the one FBT year, where those multiple items have substantially identical functions.

From 1 April 2016, the government will allow an FBT exemption for small businesses (with an aggregated annual turnover of less than $2 million) that provide employees with more than one qualifying work-related portable electronic device, even where the items have substantially similar functions. It appears that, consistent with the current rules, the FBT exemption will only apply if the relevant item is primarily for use in the employee's employment.

Removing the restriction that a tax exemption is only provided for one work-related portable electronic device of each type will remove confusion where there is a function overlap between different products (such as between a tablet and a laptop).

4.2 FBT – Capping threshold for salary sacrificed meal entertainment and entertainment facility leasing expenses ('EFLEs')

Currently, certain employers are capped on the amount of concessionally taxed fringe benefits they can provide to their employees, as follows:

(a) **FBT-rebatable employers** (e.g., certain societies, associations or clubs) are subject to a $30,000 cap (increased to $31,177 for the 2016 and 2017 FBT years due to the Temporary Budget Repair Levy) on the amount of fringe benefits (which are eligible for an FBT rebate) they can provide to each of their employees.

(b) **Public benevolent institutions** and **health promotion charities** are subject to a $30,000 cap (increased to $31,177 for the 2016 and 2017 FBT years) on the amount of FBT-exempt benefits they can provide to each of their employees.

(c) **Public and non-profit hospitals**, and **ambulance services**, are subject to a $17,000 cap (increased to $17,667 for the 2016 and 2017 FBT years) on the amount of FBT-exempt benefits they can provide to each of their employees.

Certain benefits are currently excluded from these caps, such as the following:

- Meal entertainment-related benefits (e.g., restaurant meals); and
- EFLEs (e.g., holiday accommodation, and venue hire for a special event, such as a wedding).

Additionally, meal entertainment-related benefits and EFLEs are also currently excluded from the FBT payment summary reporting rules.

From 1 April 2016, the government will introduce a separate single grossed-up cap of $5,000 for salary sacrificed meal entertainment and EFLEs (meal entertainment benefits). Where these benefits exceed the separate grossed-up cap of $5,000, they can also be counted in calculating whether an employee exceeds their existing (relevant) cap.

Furthermore, all meal entertainment benefits will become reportable.

5. Other Budget announcements

5.1 GST-related measures announced by the government

The government has announced various GST-related measures, broadly as follows:

(a) **Cross border supplies of digital products and services** – From 1 July 2017, GST will be extended to cross border supplies of digital products and services imported by consumers.

Under the current law, digital products and services imported by consumers are **not** subject to GST. This results in forgone GST revenue to the States and Territories and places domestic businesses (which generally have to charge and remit GST on the digital products and services they provide) at a tax disadvantage compared to overseas businesses.

(b) **GST-free treatment for supplies of going concerns and farmland** – The government will **not** proceed with the previously announced but unenacted measure to replace the current GST-free treatment for supplies of going concerns and farmland with a reverse charge mechanism. The original measure was intended to reduce the compliance burden for taxpayers. However, during design of the implementation of this measure, it became apparent that the measure would have resulted in adverse consequences for taxpayers.

(c) **GST compliance** – The government will provide $265.5 million to the Australian Taxation Office over three years from 2016/17 to continue a range of activities to promote GST compliance.

5.2 Recovery of HELP repayments from overseas debtors

The government will extend the *Higher Education Loan Programme* ('HELP') repayment framework to debtors residing overseas for six months or more if their worldwide income exceeds the minimum repayment threshold at the same repayment rates as debtors in Australia.

The new arrangements will apply from 1 January 2016 to new and existing debts. From this date, debtors going overseas for more than six months will be required to register with the ATO, while those already overseas will have until 1 July 2017 to register. Repayment obligations will commence from 1 July 2017.

5.3 Changes to Parental Leave Pay ('PLP')

Currently, individuals are able to access government assistance in the form of PLP, in addition to any employer-provided parental leave entitlements.

From 1 July 2016, the government will remove the ability for individuals to 'double dip', by taking payments from both their employer and the government. The government will ensure that all primary carers would have access to parental leave payments that are at least equal to the maximum PLP benefit (currently 18 weeks at the national minimum wage).

5.4 Child care (workforce participation stream)

A new single Child Care Subsidy ('CCS') will be introduced **on 1 July 2017**. Families meeting the activity test with annual incomes up to $60,000 (2013/14 dollars) will be eligible for a subsidy of 85% of the actual fee paid, up to an hourly fee cap. The subsidy will taper to 50% for eligible families with annual incomes of $165,000.

The CCS will have no annual cap for families with annual incomes below $180,000. For families with annual incomes of $180,000 and above, the CCS will be capped at $10,000 per child per year. Eligibility will be linked to a new activity test.

The CCS will replace the current child care fee assistance provided by the Child Care Benefit, Child Care Rebate and the Jobs, Education and Training Child Care Fee Assistance payments which will cease on 30 June 2017.

Additional support will be provided to eligible disadvantaged or vulnerable families through the introduction of a 'Child Care Safety Net'.

Furthermore, the 2015/16 Federal Budget announces the introduction of a new Interim Home Based Carer Subsidy Programme, which is a limited pilot programme to subsidise care provided by a nanny in a child's home from 1 January 2016.

5.5 Change to the asset test thresholds for the aged pension

The government will increase the asset test thresholds at which pensions are reduced once the threshold is exceeded, as follows:

- **For a single person** – a full pension may be received if the relevant value of included assets (i.e., assets other than excluded assets) is less than $250,000 for a homeowner (currently $202,000).

- **For a pensioner couple** – a full pension may be received if the relevant combined value of included assets is less than $375,000 for a homeowner (currently $286,500).

Non-home owner pensioners will also benefit by an increase in their threshold to $200,000 more than homeowner pensioners.

However, the current 'taper rate' at which the age pension begins to phase out will be increased from $1.50 to $3 for every $1,000 of assets over the relevant assets test threshold.

Pensioners who lose pension entitlements 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.

5.6 Value of penalty unit to increase

The government will increase the value of all Commonwealth penalty units from $170 to $180, with effect from 31 July 2015. The government will also introduce ongoing indexation of penalty units based on the CPI. Indexation will occur on 1 July every three years, with the first indexation occurring on 1 July 2018.

5.7 Income tax relief for Australian Defence Force personnel deployed overseas

The government will provide income tax relief for Australian Defence Force personnel deployed on Operations AUGURY and HAWICK. A full income tax exemption will be provided to personnel on Operation AUGURY and the overseas forces tax offset will be available to personnel on Operation HAWICK.

5.8 Cessation of the Large Family Supplement of Family Tax Benefit (FTB) Part A and reduced portability

The government will cease payment of the additional FTB Part A Large Family Supplement from 1 July 2016. Families will continue to receive a per child rate of FTB Part A for each eligible child in their family.

The government will also reduce the amount of time FTB Part A will be paid to recipients who are outside Australia. Currently, FTB Part A recipients who are overseas are able to receive their usual rate of payment for six weeks and then the base rate for a further 50 weeks. From 1 July 2016, families will only be able to receive FTB Part A for six weeks in a 12 month period while they are overseas.

5.9 Medicare levy low income thresholds for 2014/15

For 2014/15, the Medicare Levy low income thresholds will be as follows:

- Individuals $20,896 (previously $20,542)
- Families $35,261 (previously $34,367)

The families income threshold (i.e., $35,261) will be increased by $3,238 (previously $3,156) for each dependent child or student.

For single seniors and pensioners, the threshold will be increased to $33,044 (previously $32,279).

5.10 Research and Development ('R&D') tax incentive – introducing a $100 million expenditure cap from 1 July 2014

Currently, under the R&D tax incentive, companies can claim a refundable tax offset of 43.5% if their turnover is less than $20 million, or a non-refundable tax offset of 38.5%.

The government has introduced a cap of $100 million on the amount of eligible R&D expenditure for which companies can claim a tax offset at a concessional rate under the R&D tax incentive. Expenditure beyond the $100 million cap will receive a lower offset at the company tax rate.

These changes apply in relation to assessments for income years commencing on or after 1 July 2014. This measure also includes provisions for the changes to be reviewed five years following Royal Assent and to sunset 10 years following the start date of 1 July 2014.