TAX MATTERS

Tax strategies for you and your business

BUDGET EDITION 11–2014

INSIDE

- What Budget 2014 means for individuals
- Indirect taxes update
- What Budget 2014 means for business
- Tips to speed up BAS refunds
- Tax changes in the pipeline
- And more

KEYPOINT

Tax Accountants. Business Advisors.

Budget 2014–retirement and super planning

The Government has proposed some relatively conservative changes to Australia's superannuation and retirement system in this year's Federal Budget.

Superannuation contribution caps

One of the more interesting developments is the indexation of contribution caps from 1 July 2014. Regular indexation of the caps was legislated seven years ago; however it had been frozen in recent years.

Excess non-concessional contributions

The Budget now allows individuals who inadvertently exceed the non-concessional contribution cap to withdraw the excess contributions together with any earnings on those contributions.

The refunded earnings will be taxed at the individual's marginal rate of tax. Any withdrawal of the excess non-concessional contributions will not attract a penalty tax.

If an individual does not choose to exercise this choice, the excess non-concessional contributions will be subject to the excess non-concessional contribution tax at the top marginal rate.

It is yet to be determined if a timeline will exist for the individual to exercise their choice, or if a process will be used in determining how the contributions will be returned. The Government has indicated that it will be consulting with industry to finalise these details.

Superannuation guarantee

The Government has announced that it will change the timetable for increasing the superannuation guarantee rate to 12 per cent as part of the proposed repeal of the Mineral Resource Rent Tax.

The rate will increase from 9.25 per cent to 9.5 per cent from 1 July 2014 as currently legislated. The rate will then remain at 9.5 per cent until 30 June 2018, for a four year period, and then increase by 0.5 percentage points each year until it reaches 12 per cent.

Increase in age pension

The qualifying age for the pension will increase to 70 by the year 2035. This means that Australians born after 1965 will have to work until they are 70 before they are eligible for the age pension.

This increase has occurred in an attempt to ensure that the age pension remains sustainable and affordable, as well as being targeted to those in genuine need.

No existing recipient of the aged pension would have their access reduced, effectively excluding the baby boomers from the changes.

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What Budget 2014 means for individuals

Whilst there has not been a change to personal income tax rates in the Budget, there has been some significant re-direction of spending to help build a stronger economy.

Temporary Budget Repair Levy

The Government announced the introduction of a Temporary Budget Repair Levy of two per cent on individuals' taxable income exceeding $180,000. This will apply from 1 July 2014 through to 30 June 2017.

The introduction of this levy means that individuals with taxable incomes exceeding $180,000, and who are liable for the Medicare levy surcharge, will be subject to a top marginal rate of 50.5 per cent of income.

Non residents are also expected to bear the burden of the Temporary Budget Repair Levy.

Seniors benefits

Australians who have retired will no longer be entitled to some seniors benefits after June this year. Benefits such as telephone, utility allowances and travel allowances are among concessions that will be no longer available.

However, the Clean Energy Supplement, lower co-payments for medicines on the Pharmaceutical Benefits Scheme and access to a lower threshold for the Medicare Safety Net will still be available to eligible seniors.

Age pension linked to CPI

The age pension will be linked to the consumer price index (CPI) rather than the average male weekly earnings from 1 September 2017. Other welfare benefits such as the Disability Support Pension, the carer payment and veterans' affairs pensions will also be linked.

The CPI is typically lower than the average male weekly earnings which will mean that the value of the age pension will fall over time.

Trade support loans program

The Government will introduce a "trade support loans program" to support apprentices throughout their training.

The program will offer apprentices loans of up to $20,000 at concessional interest rates over a four year apprenticeship.

Apprentices will need to begin repaying their loan when their income exceeds a minimum threshold.

The Government will be offsetting the cost of the trade support loans program by scrapping the 'tools for your trade' program from 1 July this year.

Worker's safety net cut

Workers in failed companies will have their government-funded safety net reduced. The changes also cap the maximum payment for redundancy at 16 weeks and freeze for four years the indexation of the scheme's maximum weekly wage for calculating entitlements.

FEDERAL BUDGET 2014

Indirect taxes update

The Government has announced in the Budget that, from 1 August 2014, they will be re-introducing the twice yearly indexation of the fuel tax excise.

This scheme is expected to generate $2.2 billion in revenue that is intended to be used for funding new road infrastructure. This change is also aimed at improving Australia's transportation and commercial infrastructure.

The burden of fuel excise indexation will fall largely on consumers and to a lesser extent on the business sector.

However, further changes to schemes relating to fuel products that may have implications for businesses include:

- a reduction in the net excise on ethanol and biodiesel to nil from 1 July 2015
- a gradual increase in the excise on ethanol and biodiesel from 1 July 2016

The decision to freeze the excise was taken in March 2001 in response to opposition to the GST and soaring petrol prices.

No changes were announced in the Budget for other indirect taxes, including the goods and services tax, the wine equalisation tax and other excises.

Focus on wealthy Australians

The ATO has received additional Government funding to continue their focus on improving the voluntary compliance of wealthy Australians until 30 June 2017.

The ATO began focusing on wealthy Australians in 2009-10 with the ultimate goal of influencing all wealthy Australians to pay their fair share of tax.

The ATO hoped to do this by changing attitudes and behaviours associated with tax manipulation, avoidance and schemes.

Wealthy Australians are defined as Australian residents who control net assets of between $5 million and $30 million.

The ATO's strategy to influence wealthy Australians includes:

- gaining a greater and more detailed understanding of wealthy Australian's
- treating systematic tax risk
- heightening ATO visibility in the community through education

The ATO has undertaken direct enforcement action, including comprehensive reviews and audits, as well as letter and phone campaigns.

What Budget 2014 means for business

The 2014 Budget has brought about a number of changes affecting small businesses.

Corporate tax rate to offset PPL Levy

The Government has confirmed its commitment to cutting the company tax rate from 30 per cent to 28.5 per cent as of 1 July 2015.

However, for large companies with taxable incomes in excess of $5 million, any expected benefits from this rate cut will be largely offset by the imposition of the Paid Parental Leave (PPL) Levy at the rate of 1.5 per cent.

Fringe Benefits Tax

The Government announced that from 1 April 2015 until 31 March 2017 it will be increasing the FBT rate from 47 per cent to 49 per cent. This will result in a corresponding increase to the FBT gross-up rates and the FBT rebate.

Mature age workers

The Government has announced that businesses are now able to receive up to $10,000 in government funding if they hire a job seeker aged 50 or older in a wage subsidy program called "Restart."

Restart will begin from 1 July 2014 and will allow eligible employers to receive $3000 if they hire a full-time mature age job seeker who has been previously unemployed for a minimum of six months and also employ that person for at least six months.

After the job seeker has been working for the same employer for 12 months, the business will receive another payment of $3000, then another $2000 at 18 months and a final $2000 at two years.

To be eligible for the program employers will need to demonstrate that the job they are offering is sustainable and ongoing and that they are not displacing existing workers with subsidised job seekers.

The Mature Age Worker Tax Offset will also be scrapped and the savings from this will be redirected to the Restart program.

Unfair contract provisions

Small businesses will be protected from unfair contracts imposed by big businesses as they are now able to access the same unfair contract provisions currently available to consumers under the Australian Consumer Law.

The scheme will also include legislative reforms to make unfair terms in standard form contracts with small businesses void and help to provide a level playing field for small businesses.

R&D tax offset rates

In line with the cut to the company tax rate, the Government will also be reducing the rates of the refundable and non-refundable research and development (R&D) offsets by 1.5 percentage points, effective from 1 July 2014.

This means that for eligible companies with turnover:

- less than $20 million, the refundable R&D tax offset will reduce from 45 per cent to 43.5 per cent
- greater than $20 million, the non-refundable R&D tax offset will reduce from 40 per cent to 38.5 per cent

Tips to speed up BAS refunds

There are many problems that occur when processing activity statements and tax returns that can lead to a delay in the ATO issuing refunds.

However, these problems are often caused by small issues and can be easily avoided.

Here is a list of tips to help minimise some of the issues that can prevent a speedy tax refund:

- keep personal details, such as postal address, bank details and authorised contacts, updated
- lodge all outstanding activity statements as the ATO are unable to process the refund until they know the extent of the credit
- keep good records and hold onto receipts
- keep the statement clean. This involves not writing notes outside the space provided, do not use symbols and show whole dollar amounts only
- do not double up by lodging both online and in person
- refer to a specialist if the process is complex

A contractor is not always a contractor

The ATO is increasing its audit focus on businesses that use contractors.

It is illegal for businesses to incorrectly treat their employees as contractors. The ATO uses a combination of education and compliance action to ensure that all businesses are on a level playing field.

Employers will be exposed to shortfalls of superannuation and PAYG if the ATO concludes that they have confused the distinction between their employees and contractors. There is also the additional risk of interest and penalties.

There are a number of factors used to determine a contractor, which may not always be obvious, so it is important that business owners are aware of the difference between an employee and a contractor

Employers should also ensure that they keep relevant and good quality documentation, as this can prove whether the employer hires an employee or contractor.

Tax changes in the pipeline

Australian taxpayers understand tax reform means changes to the tax system to simplify and improve its operation. Most of these changes usually take place as part of the yearly Budget.

Budget 2014 contained a number of relatively minor changes that could go into the category of tax reform. None the less, there has been some changes, or at the very least a reinstatement of previous commitments.

The Government currently has a number of key tax reform priorities to deliver in the short term.

Mineral Resources Rents Tax (MRRT)

The proposed repeal of the MRRT intended to take effect from 1 July 2014, will see the loss of a number of related measures, including:

- repeal of loss carry back regime with effect from the start of the 2013-14 income year
- removal of small business capital allowances concessions for depreciating assets that are first used and installed ready for use on or after 1 January 2014
- rephasing the increase of the superannuation guarantee to reach 12 per cent by 1 July 2022

Similarly, the repeal of the carbon pricing mechanism will take with it planned personal tax rate cuts and associated amendments to the low income tax offset.

Tax-free threshold

The tax-free threshold for resident individuals will increase from $18,200 to $19,400 from 1 July 2015. Taking into consideration the top marginal rate, the Temporary Budget Repair Levy and the Medicare levy will be 49 per cent for resident individuals.

Third party reporting and data matching

A Budget measure from last year 'Tax Compliance-improving compliance through third party reporting and data matching' has been deferred until 1 July 2016. The measure was originally intended to commence from 1 July 2014.

The measure was proposed to require a range of third parties including fund managers, brokers and financial service and property businesses to report on a variety of financial and transactional data.

The deferral of the start date will also allow additional consultation with affected entities, and time for impacted entities to adopt processes and systems to ensure compliance with the proposed measure.

Medicare levy

As announced in last year's budget, the Medicare levy will increase from 1.5 per cent to 2 per cent from 1 July 2014.

The reason for the introduction of these changes have been to help fund the DisabilityCare Australia program

Reducing the risk of refund fraud

Refund fraud occurs when people deliberately falsify tax returns, activity statements and other documents to claim refunds, rebates or offsets from the ATO that they are not entitled to.

These fraudulent claims can be lodged by individuals on their own account or third parties on behalf of others. Often, this can also involve identity crime, where taxpayer identities are used by third parties to make fraudulent claims for personal gain.

Some examples of refund fraud are:

- deliberately over-claiming deductions, offsets, or expenses by providing false or misleading information
- understating income and/or providing fictitious payment summary details
- providing false information in a business activity statement
- making claims through fraudulent registrations or using false or stolen identities

The ATO have a range of controls and systems in place to detect potential refund fraud, these include:

- models to analyse information on income tax returns, business activity statements and other tax forms lodged
- sharing data and intelligence with their partner agencies
- obtaining information about suspected fraud from the community and other government agencies

Businesses can reduce the risk of refund fraud via a third party by ensuring that their private records and internal systems are kept safe and secure. Businesses should also ensure that they have appropriate procedures and security controls in place and that all employees are aware of their responsibilities.

As a minimum, it is recommended that businesses regularly change all passwords, remove user access, encrypt computer files where possible and change shared passwords immediately when an employee leaves.

Computers should also have up-to-date security software. This should include anti-virus, anti-spyware, anti-spam and firewall security which will protect the computer from malicious programs.

Businesses should also protect the security of their premises, this can involve:

- installing appropriate physical barriers such as door and window locks, alarm systems and lockable storage
- removing documents from printers and turning off fax machines at close of business
- securing files when they are not in use
- restricting employee access to areas where files are stored