2015-16 Australian Federal Budget
Prepare for repair

pwc

pwc.com.au/tax/federal-budget

Contents

Budget 2015-16
Next stop: Tax reform

Budgets inherently are about trade-offs. They're about balancing a complex combination of tax and expenditure initiatives, across multiple years, and trying to articulate how these will, overall, contribute to national wellbeing.

But in an environment where all Australians are feeling the pressure of rising living costs, the challenge of framing the Budget is increasingly difficult.

At least since the Howard/Costello years of recurring personal income tax cuts, funded by the mining boom, the Budget has come with increasing expectations around 'what's in it for me?'. These expectations have been reinforced by successive oppositions, along with media, gleefully pointing out the 'winners' and, more damagingly, the 'losers' of every Budget.

Behavioural economics shows that people feel losses much more than gains – generally around twice as much. This explains why even the slightest hint at a loss gives any negative Budget campaigns so much weight. And it highlights the challenge confronting the Treasurer's 2015-16 Budget, as it grapples with difficult economic headwinds yet the persistent need for medium-term Budget repair.

The Australian economy overall is growing at around 2.5 per cent, with this modest growth expected to improve to around 3.5 per cent, by the end of the Budget projections. However, analysis using PwC's Geospatial Economic Model (GEM) highlights the number of communities that are doing it tough – with 35 per cent of small area economies shrinking during 2013-14. This means many Australians will be particularly sensitive to any changes which might have the slightest negative impact on them directly, even if there are offsetting positive changes elsewhere in the Budget.

With this year's 'no surprises' Budget, and a Government which is still recovering from the difficult 2014-15 Budget, the 'losers' aren't that obvious, but nor are the 'winners':

- While childcare benefits will continue, or increase for some workers, the paid parental leave scheme will be subject to further cuts, as primary carers will no longer be able to access these benefits where their workplace scheme exceeds the government scheme.
- Small businesses are set to benefit from a reduced corporate tax rate or a tax discount for sole traders, immediate deduction of capital purchases of up to $20,000 and streamlined business registration. But this two-tiered tax system, over the longer run, may risk hindering growth as taxpayers try to stay beneath the threshold, rather than embracing growth.
- Pension indexation has been reinstated to its former rate, though combined with some tightening of part-pension eligibility for pensioners with substantial assets. Funding this, though, will be a welfare crackdown, expected to return around $1.5 billion to the Budget.

Another learning from behavioural economics is that complexity can derail incentives. People won't respond to an incentive unless it is simple and they can understand it. But this isn't always easy. The complex interaction of various personal tax and welfare initiatives means that it's hard to know precisely how well they will encourage older workers and parents to enter (or re-enter) the workforce. With an ageing population, it's critical that the Treasurer's blend of Budget 'carrots' and 'sticks' strikes the right balance in encouraging workforce participation.

A clear plan forward?

This year's Budget arrives with a headline deficit of $35.1 billion (2015-16), bolstered by slightly higher-than-expected commodity prices. The new narrative is about a 'credible trajectory' for a return to surplus, now expected by 2019-20, just one year beyond the Budget projection period.

In a community that has become accustomed to the notion that surpluses are good, deficits bad, the challenge is to chart a course for the economy with medium-term goals in sight, without undue haste to repair the Government's Budget position for its own sake.

Recent research by the Business Council of Australia found that 94 per cent of those surveyed believe that Australia 'needs a better plan for its long-term future'.

This year's Budget, arguably, has done little to address this view. While the measures proposed may pass through the Senate more easily than last year's Budget, one cannot help but feel like the Government is still to tackle the real problems – in tax reform, superannuation and welfare, and health. Sooner or later it will have to do something about it.

Large business and multinationals

As foreshadowed by the Treasurer in the lead up to this year's Federal Budget, the Government has announced a package of measures designed to address 'multinational tax avoidance'. These measures appear to be a reaction to recent media reporting and designed to send a message that the Government is determined to protect the Australian tax base and ensure the Australian Taxation Office (ATO) is equipped with strong anti-avoidance measures applicable to 'large' multinational companies (MNCs).

Background

Internationally and locally there has been growing public interest in the tax rules applicable to cross-border trade and investment. This includes interest in the compliance and enforcement of the current rules as well as a unified movement of tax reform to ensure that global tax rules remain current with business evolution.

The Organisation for Economic Cooperation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project, designed to reform the global tax rules on a multi-lateral basis, was announced almost two years ago and is due to conclude this calendar year. However, in the meantime, a number of countries have taken unilateral action. The most recent and prominent example is a new 'diverted profits tax' announced by the United Kingdom in December 2014 and effective from 1 April 2015.

Here in Australia, there has been public reporting of the tax affairs of, in particular, resource and technology companies, following the inquiry by the Senate into 'corporate tax avoidance' which is due to report to Parliament in early June 2015. The opposition parties have released their own tax reform proposals in the area.

The proposals announced by the Government in the 2015-16 Federal Budget are summarised below.

Arrangements to avoid Permanent Establishments (PEs)

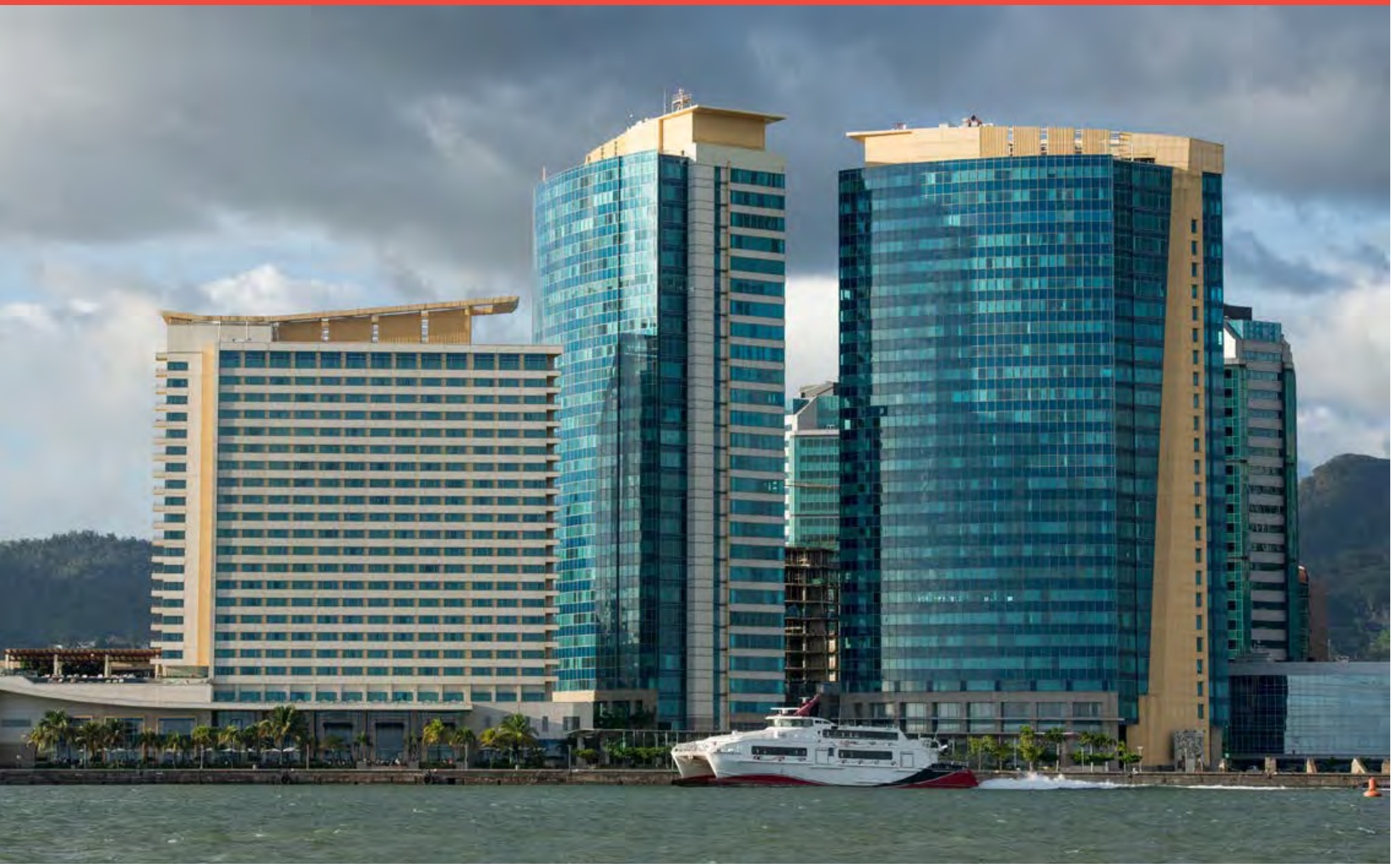
The Government proposes to amend the general anti-avoidance provisions (Part IVA of the *Income Tax Assessment Act 1936*) to tackle particular arrangements designed to avoid a taxable presence in Australia. The Treasurer has indicated that, based on ATO compliance activities to date, approximately 30 MNCs are likely to be affected by this measure. The companies have not been named and the Treasurer has refused to put a figure on the revenue likely to be raised by this measure. However, based on recent public reporting and comments from the Commissioner of Taxation at the Senate inquiry last month, it would be fair to observe that technology companies are a target of this proposed measure.

Draft legislation has been released for this measure (referred to below as the 'PE avoidance rule'), which is intended to operate from 1 January 2016 following consultation in relation to its design (with submissions due by 9 June 2015). Broadly, the proposed amendments would allow the Commissioner to tax foreign entities as if the foreign entity had supplied goods or services to Australian customers from an Australian PE. As a result, business profits attributable to the activities in Australia would be taxable in Australia and certain costs attributable to the deemed PE would be subject to withholding tax (eg interest and royalties).

This proposed PE avoidance rule is complex, but in broad terms, is intended to apply where all of the following features exist:

1. A supply of goods or services by a foreign entity to unrelated Australian customers.
2. Income is derived by the foreign entity from the supply that is not attributable to an Australian PE.
3. Activities are undertaken in Australia in connection with the supply.
4. Some or all of the activities are undertaken by an Australian resident (or Australian PE) who is an associate of, or commercially dependent on, the foreign entity.
5. It is reasonable to conclude that the scheme is designed to avoid the foreign resident deriving income through an Australian PE of the foreign entity.
6. It would be concluded that the 'principal purpose' of the scheme was to obtain a tax benefit, which may be a reduction in Australian tax (including taxes other than income tax) or Australian and foreign tax.
7. The global annual turnover of the foreign entity (or the group of which it is a member) exceeds $1 billion.
8. The foreign entity is 'connected with a no or low corporate tax jurisdiction' (either under the law of a foreign country or through preferential tax regimes).

In relation to requirement 6 above, the threshold is principal purpose and may include more than one principal purpose. This is designed to align with the BEPS Action 6 (prevent treaty abuse) and contrasts with the 'sole or dominant purpose' test in Part IVA more generally. In addition, the inclusion of foreign taxes is intended to address arguments that Part IVA cannot apply to schemes which mainly achieve foreign tax savings.



In relation to the 'low or no tax' test, the concept of 'low tax' is critical. However, no definition has been provided in the legislation and the examples provided are not informative. In addition, where a low or no tax jurisdiction entity exists within a group, the proposed rules effectively put the onus on the foreign entity to evidence that the low or no tax entity is not directly or indirectly related to the Australian supply or that the entity has substantial activity in relation to the Australian supply. The operation of these various tests is far from clear.

Where these conditions are satisfied, the foreign entity will, in effect, be taxed on the basis that it is deemed to be carrying on a business in Australia through a PE and, as a result:

- the arm's length profits of the PE will be deemed to be sourced in Australia and therefore the foreign entity subject to tax
- any interest or royalties paid by the foreign entity would be subject to Australian withholding tax.

In addition, due to the proposal to increase administrative penalties (see below), the starting point would be penalties of 100 per cent of any tax shortfall.

Although not addressed in the Budget, it is apparently considered that the proposed PE avoidance rule will not breach Australia's tax treaties because, under Australian domestic law, the general anti-avoidance rules prevail over tax treaties. This aspect of the legislation warrants careful consideration because it may be argued that the proposed rule goes further than our treaty partners may be expecting by deeming the foreign entity to have a PE and deeming certain expenses to be borne by the deemed PE for withholding tax purposes.

No guidance is provided in relation to the calculation of the 'tax benefit' obtained, presumably equal to the arm's length profit of the deemed PE. This is likely to be an area of controversy and dispute for taxpayers potentially affected by this rule.

Interestingly, whilst the proposed amendments will operate in relation to tax benefits obtained on or after 1 January 2016, the draft legislation is clear that schemes entered into before this time will be caught by the new rules. However, the legislation does not explain how the various tests are to apply to, for example, arrangements that may have been established years ago when tax and business considerations were very different.

The PE avoidance rule is a departure from the general principle that Australia will not tax the profits of foreign companies doing business with Australian customers, unless those companies have a PE in Australia. It could be observed that the OECD BEPS Action Plan, specifically Action 1 (address the tax challenges of the digital economy), Action 6 (prevent treaty abuse), Action 7 (prevent the artificial avoidance of PE status) and Action 15 (develop a multi-lateral instrument), is intended to develop recommended changes to deal with the situations targeted by the proposed PE avoidance rule. For example, Action 7 is exploring the broadening of the PE concept to include circumstances where a local agent 'negotiates material elements of contracts'. In our view, it is disappointing that the Government is proposing unilateral action ahead of the finalisation of the OECD BEPS project.

Increased penalties aimed at combatting multinational tax avoidance

For income years commencing on or after 1 July 2015, MNCs with annual global revenue of $1 billion or more will be subject to an increased level of administrative penalties where there is a 'scheme shortfall amount' arising from tax avoidance schemes and profit shifting (transfer pricing) schemes. Under the proposal, where the MNC does not have a 'reasonably arguable' position (RAP), the level of penalties will be double the amount that applies under the current law. It appears that this new penalty regime is not limited to arrangements that fall within the proposed PE avoidance rule.

Given that the existing 'base penalty amount' that applies where there is no RAP is 50 per cent of the 'scheme shortfall amount', the doubling of this 'base penalty amount', to 100 per cent of the 'scheme shortfall amount', will act as a strong incentive for management to put in place governance procedures designed to ensure that the tax positions taken are appropriate and sustainable as a matter of law.

Adoption of OECD transfer pricing reporting standards

With effect from 1 January 2016, Australia will implement the new transfer pricing documentation standards of the OECD for all MNCs with annual global revenue of $1 billion or more. Under this measure, the ATO will receive the following from these MNCs operating in Australia:

- a country by country (CbC) report showing the global activities of the MNC including the location of its income and taxes paid
- a master file containing an overview of the MNC's global business, its organisational structure and its transfer pricing policies, and
- a local file that provides detailed information about the local taxpayer's inter-company transactions.

Under exchange of information treaties with other countries (treaty countries), the revenue authorities of those countries will be able to access this information, in the same way that the ATO will be able to access the information obtained by those treaty countries that have adopted the new transfer pricing documentation standards of the OECD.

In announcing the implementation of the OECD's new transfer pricing documentation and reporting standards it is not clear whether there is any intention to alleviate the potential overlap in compliance that exists under the recently introduced Australian transfer pricing documentation requirements.

Other measures

The Government has also indicated that additional funding of $87.6 million will be provided to the ATO to continue its International Structuring and Profit Shifting (ISAPS) reviews. PwC supports the ATO being properly resourced in general and in particular to address arrangements contrary to Australia's international tax rules.

In the *Fairness in Tax and Benefits* publication released with this year's Federal Budget, the Government has highlighted a number of actions it will be taking to implement other aspects of the OECD's work on BEPS including:

- Anti-treaty abuse rules: Australia will act to incorporate the OECD's treaty abuse rules into Australian treaty practice noting, however, that most of Australia's tax treaties already include anti-treaty abuse rules.
- Anti-hybrid rules: The Board of Taxation has been asked to consult on the implementation of the OECD anti-hybrid recommendations. According to the Government, Australian will be one of the first countries to act on the OECD's draft plan in relation to BEPS Action 2 (neutralise the effects of hybrid mismatch arrangements).
- Harmful Tax Practices and Exchange of Rulings: The ATO has commenced exchange of information on 'secret tax' deals provided to multinationals by other countries that may contribute to tax avoidance in Australia.

The Government has also asked the Board of Taxation to lead the development of a code on the public disclosure of greater tax information by large corporates. However, the Government warns that progress will be monitored and the Government will consider further changes to the law if required.

PwC supports factual and meaningful tax transparency that informs the national tax debate on tax reform and the Australian perspective on reform of international tax rules where this does not impose onerous compliance obligations on business. Referral to the Board of Taxation for consultation on a transparency code makes sense for the community and business.

Private business

Small businesses with aggregated annual turnover of less than $2 million will be the beneficiaries of the Government's Growing Jobs and Small Business package which is aimed at helping small business to invest, grow and employ more people.

Firstly, the Government has confirmed tax cuts for both incorporated and unincorporated small business entities from the 2015-16 income year. This should provide much needed cash flow respite to support business activity and growth.

The company tax rate will be reduced from 30 per cent to 28.5 per cent for small business companies.

Unincorporated small businesses will benefit from a five per cent discount on income tax payable on income from business activity. The discount will be capped at $1,000 per individual for each income year, and delivered as a tax offset. As such, small business operators will need to carefully assess whether to incorporate or not.

From a company perspective, the rate reduction does not affect the company's franking ability as it is proposed that the current maximum franking credit rate for a distribution will remain unchanged at 30 per cent for all companies. However no detail is currently available regarding franking account administration for the companies that qualify for the reduced tax rate.

The package will also include the following measures available from 1 July 2015:

- Immediate deduction for a range of professional expenses associated with starting a new business, such as professional, legal and accounting advice, instead of spreading the deduction over five years.
- Easier access for small businesses to crowd source equity funding by providing necessary funding to Australian Securities and Investment Commission (ASIC) to simplify reporting and disclosure requirements.
- Investment into software allowing business to deal with Government agencies such as ASIC and the ATO more efficiently.

From the 2016-17 income year, the Government will provide tax relief for small businesses that change their legal structure by way of a capital gains tax rollover.

In addition, small businesses may claim an immediate deduction for most depreciating assets that cost less than $20,000. This will apply to assets acquired and installed ready for use from 7:30pm (AEST) 12 May 2015 to 30 June 2017.

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

Individuals

In his pre-Budget address to the Australian Chamber of Commerce and Industry, the Prime Minister promised that one of the centrepieces of this year's Federal Budget would be a package to support families. In line with this promise, as expected, this Budget has a focus on childcare support for working parents with the aim of enticing more people to enter or stay in the workforce.

Individual taxpayers have been spared any direct tax increases, but some are likely to be impacted by a range of other measures announced as part of this Budget, including the childcare package and changes to pension asset thresholds.

Income tax rates

There have been no changes announced to the personal income tax rates for Australian tax residents or non-residents. However, the Government previously announced its intention to repeal already enacted personal income tax cuts due to commence on 1 July 2015. Accordingly, the personal income tax rates for the 2015-16 year should remain at their 2014-15 levels.

As the Government's recent tax reform discussion paper indicates, as the average income of Australians increases with wage inflation, without a corresponding change in income tax thresholds, an increasing number of taxpayers find themselves in higher marginal tax brackets – otherwise known as 'bracket creep'. Without any

changes to personal tax rates this long-standing issue remains for another year. It is becoming inevitable that any comprehensive reform of the tax system will need to address this issue, with the Treasurer having previously acknowledged that "over time, unchecked bracket creep could potentially reduce workplace participation and dampen the benefits afforded to the community by higher participation rates".

The proposed tax rates for the 2015-16 income year ahead are contained within the tables below:

Taxable income threshold range	Resident individual 2015-16 marginal income tax rate*	Non-resident individual 2015-16 marginal income tax rate*
$0 – $18,200	0.0%	32.5%
$18,201 – $37,000	19.0%	32.5%
$37,001 – $80,000	32.5%	32.5%
$80,001 – $180,000	37.0%	37.0%
$180,001 +	45.0%	45.0%

There was also no change to the temporary budget repair levy which continues to apply until 30 June 2017. The levy applies at a rate of 2 per cent on that part of an individual's taxable income exceeding $180,000.

The following table sets out the amount of income tax and temporary budget repair levy payable on a range of taxable income amounts of a resident individual, ignoring the Medicare levy and surcharge, the low income tax offset and any other tax offset entitlements.

Taxable income	2015-16 tax payable*	Temporary Budget Repair Levy	Total
$37,000	$3,572	$0	$3,572
$50,000	$7,797	$0	$7,797
$75,000	$15,922	$0	$15,922
$100,000	$24,947	$0	$24,947
$150,000	$43,447	$0	$43,447
$180,000	$54,547	$0	$54,547
$200,000	$63,547	$400	$63,947
$300,000	$108,547	$2,400	$110,947
$400,000	$153,547	$4,400	$157,947

*Pending enactment of changes contained in Labor 2013-14 Budget Savings (Measures No. 1) Bill 2014

Medicare

No new changes were announced in relation to the Medicare levy rate, which is set at 2 per cent of taxable income (as of 1 July 2014).

For the 2014-15 year, the Medicare levy low-income thresholds have been increased for singles, families, and single seniors and pensioners. The movements aim to offset growth in the Consumer Price Index (CPI) to ensure that low-income taxpayers are exempt from paying the Medicare levy. The increased thresholds are:

- Individuals $20,896 (increased from $20,542)
- Families $35,261 (increased from $34,367), with an additional $3,238 for each dependent child or student
- Single seniors and pensioners $33,044 (increased from $32,279).

Private health insurance and Medicare levy surcharge

The private health insurance rebate percentage is indexed annually at 1 April. Indexation of the Medicare levy surcharge income thresholds has been paused until 1 July 2018 in accordance with the Government's announcement in last year's Federal Budget.

Accordingly, the current rebate entitlements and surcharge applicable to those individuals who do not have the appropriate health insurance hospital cover, from 1 April 2015 to 31 March 2016 are as follows:

	Full entitlement	Tier 1	Tier 2	Tier 3
Taxable income				
Singles	$90,000 or less	$90,001-$105,000	$105,001-$140,000	> $140,000
Families	$180,000 or less	$180,001-$210,000	$210,001-$280,000	> $280,000
Rebate				
Aged under 65 years	27.82%	18.55%	9.27%	0%
Aged 65-69 years	32.46%	23.18%	13.91%	0%
Aged 70 or over	37.09%	27.82%	18.55%	0%
Medicare Levy surcharge				
All ages	0.0%	1.0%	1.25%	1.5%

Changes to the income tax deduction rules for car expenses

The Government has announced the following changes in relation to the available income tax deduction methods for car expenses applicable from 1 July 2015:

- the removal of two calculation methods for work-related deductions for car expenses
- the introduction of a flat rate when applying the 'cents per kilometre method'.

The measures remove the availability of the '12 per cent of original value method' and the 'one-third of actual expenses method' for calculating deductions, leaving the 'logbook method' and 'cents per kilometre method' as the only available options.

In addition, the 'cents per kilometre method' will be amended to a flat 66 cents per kilometre rate for all cars, regardless of engine size. The Commissioner of Taxation will be responsible for updating this rate in future years.

The stated intent of these changes is to streamline the process of calculating deductions, reduce compliance cost, and bring the car expense deductions more in line with the average cost of operating a car.

Superannuation

No significant superannuation changes have been announced in this year's Budget. This is not surprising as we are in the midst of a tax reform process so it is unlikely that the Government will make any major changes to the superannuation system until the consultation process has been finalised.

As previously announced, the Government has relaxed the criteria for release of superannuation benefits for those members under preservation age with a terminal medical condition. Currently a member is required to have two medical practitioners (including a specialist) certify that they are likely to die within one year in order to access their superannuation benefits. From 1 July 2015, the period will be extended to two years, to give members in this position earlier access to their benefits.

A new measure announced in the Budget will remove existing red-tape to make it easier for individuals to find lost and unclaimed superannuation from 1 July 2016.

Childcare package

The Government has delivered on its promise to allocate funding in this year's Federal Budget to support childcare for working parents, with the announcement of a 'Jobs for Families' childcare package. According to the Government's research, the measures are estimated to encourage 240,000 families to increase their involvement in paid employment.

Following the Productivity Commission inquiry into childcare and early childhood learning which released its findings earlier this year, the Government announced prior to the Federal Budget a new Child Care Subsidy model that comprises a single means-tested subsidy paid directly to approved childcare centres, with the rate varying based on family income and subject to a work activity test. It is proposed that families earning less than $60,000 receive a subsidy of 85 per cent of the actual fee paid, up to an hourly fee cap. This rate will then taper to a subsidy of 50 per cent of out-of-pocket expenses for families earning $165,000 or more. For families on incomes of $180,000 or more, the subsidy will be capped at $10,000 per child per year. The new subsidy is set to apply from 1 July 2017.

Other aspects of the package include:

- a scheme to provide funding for families to access home care services provided by nannies
- targeted support to disadvantaged or vulnerable families to address barriers to access childcare.

Other personal tax measures

- Family Tax Benefit (FTB) Part A large family supplement will cease from 1 July 2016. However families will continue to receive a per child rate FTB Part A for each eligible child in their family. Additionally the amount of time FTB Part A will be paid to recipients who are outside of Australia will be reduced.
- From 2016-17, Higher Education Loan Program (HELP) debtors residing overseas for six months or more will be required to make repayments of their debt, where their worldwide income exceeds the same minimum repayment threshold which applies to debtors in Australia (currently $53,000).
- From 1 July 2015, 'fly-in, fly-out' and 'drive-in, drive-out' workers will be excluded from accessing the Zone Tax Offset if their normal place of residence is not within a 'zone'. Only those taxpayers who have taken up 'genuine' residence in a remote area will be able to access the offset going forward.
- From 1 July 2016, most working holiday makers to Australia will be considered non-residents for tax purposes, regardless of the length of time of their working holiday. As a result they will be subject to non-resident tax rates from their first dollar of income.
- From 1 July 2016, the income tax exemption is removed for government employees earning income when delivering Official Development Assistance overseas for more than 90 continuous days.

Indirect tax

Extending GST to digital products and services imported by consumers

The Government has released draft legislation that proposes to amend the goods and services tax (GST) law to give effect to the 2015-16 Federal Budget measure to ensure digital products and services provided to Australian consumers receive equivalent GST treatment whether they are provided by Australian or foreign entities.

The new measures are to apply to supplies made on or after 1 July 2017 and the consultation period on the draft legislation is open until 7 July 2015. While the delayed start date is likely to be welcomed by industry, experience in the European Union (EU) (where similar laws have recently come into force) may suggest that a longer time frame is required to properly implement system changes. The consultation period is also surprisingly short for industry to comment, particularly when viewed against the proposed implementation date of July 2017 and the complexity and broad scope of the proposed law.

The proposed changes involve extending the meaning of 'connected with Australia' to include supplies made to 'Australian consumers'. An Australian consumer is broadly defined as an Australian resident other than a business. However, an entity will also be an Australian consumer if it is carrying on an enterprise but is not registered or required to register for GST because its turnover is less than the GST registration threshold. The new measures will therefore not apply to 'business to business' transactions.

There are likely to be significant implementation issues regarding the information available on whether a customer is an 'Australian consumer'. The draft explanatory material released with the legislation notes that the ATO will work with taxpayers to agree what steps need to be taken to determine whether a customer is an Australian consumer. It is likely that industry may want greater certainty on this key issue, particularly given the number of customers who contract with offshore digital content providers, the volume and diversity of transactions and the difficulty of implementing system changes on such a large scale. Customer experience may also be a consideration here, as many digital content providers will be wary of adding further 'red tape' to the customer on-boarding or sale process. Further draft legislation or regulations may be appropriate to establish clear, practical and workable criteria to determine when a customer is an Australian consumer. For example, other jurisdictions, such as South Africa and the EU, have adopted proxies such as ISP addresses and the locations of bank accounts from which payments originate for residency.

The draft explanatory material notes that the proposed law changes will result in supplies of digital products, such as streaming or downloading of movies, music, apps, games and 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. The previous announcement had focused on imported digital products but it appears that the measures are intending to pick up other types of imported services supplied electronically to consumers.

The new measures may require the supplier to register and account for GST. In this regard, the draft law contemplates that regulations may be introduced which allow for the implementation of an elective simplified registration mechanism. These amendments appear to be aimed at simplifying the administrative burden for offshore entities caught by the proposed rules to promote compliance. The draft law also provides an integrity measure under the simplified registration mechanism to prevent participating taxpayers from claiming input tax credits on related costs.

In many circumstances, responsibility for the GST liability that arises under the amendments will be shifted from the supplier to the operator of an electronic distribution service. This will occur where the operator controls any of the key elements of the supply such as delivery, charging or terms and conditions. The provisions have been drafted broadly and may extend to payment processors and potentially banks and credit card providers. Shifting responsibility for the GST liability to operators is stated to minimise compliance costs as operators are generally better placed to comply. However, this additional collection responsibility may add significant compliance costs for the intermediary. The electronic distribution service provisions appear to be a carbon copy of equivalent EU rules. Experience in the EU has been that these provisions have caused a great deal of confusion and uncertainty between suppliers and operators as to who is liable for the GST and have caused a number of related contractual and pricing problems as between suppliers, intermediaries and consumers.

The new measures do not raise significant revenue but are consistent with the Government's desire to address the BEPS agenda in the GST space. In this regard, the new measures are in line with OECD guidelines and recent law changes in several other GST/VAT jurisdictions. However, it is worth noting that there are still some differences in laws between territories. These differences, particularly the lack of clear and consistent rules across jurisdictions for determining the place of consumption, will continue to create unintended instances of double tax or double non-tax in relation to supplies of digital content across borders. Work needs to be done at the OECD level to agree on a set of consistent legislative principles to harmonise the application of GST/VAT rules for cross-border supplies. This, and a number of other compliance and practical issues, will need to be addressed in the coming months.

Other GST measures

- The previously announced measure to implement reverse charge rules for going concerns and farmland sales will not proceed.
- The Government will provide $265.5 million to the ATO over three years from 2016-17 to promote GST compliance.

Employment taxes

Changes to the FBT system for work-related electronic devices

The Government is extending existing Fringe Benefits Tax (FBT) concessions for work-related electronic devices for small businesses. In line with the other small business Budget measures, this concession will apply to those businesses with an aggregated annual turnover of less than $2 million.

Small businesses will not be subject to the current annual FBT limitation of one qualifying work-related portable electronic device, where the items have substantially similar functions. The stated purpose is to remove confusion where there is a function overlap between different products (such as between a tablet and a laptop). Interestingly, the ATO already makes this distinction in its published guidance.

This change will take effect from the FBT year commencing 1 April 2016.

New FBT concessional caps – meal and entertainment benefits

The Government has announced that it will introduce a $5,000 grossed-up cap on FBT exemption and rebate concessions relating to the provision of certain meal entertainment and entertainment facility leasing expense (EFLE) benefits. These changes will apply to meal entertainment and EFLE benefits that are provided as part of a 'salary packaging arrangement', being arrangements involving a benefit provided in exchange for a reduction in salary or wages, or where the benefit is part of the employee's remuneration package.

This change will impact certain employers including public benevolent institutions, public and not-for-profit hospitals, public ambulance services, charitable institutions and a range of not-for-profit institutions, clubs and associations.

Such benefits will also become Reportable Fringe Benefits for Payment Summary Reporting purposes.

Meal entertainment and EFLE were originally 'excluded' from FBT when the capping measures were introduced as an administrative concession, on the basis that it would be too difficult to track and record the benefits against an individual's general concessional $17,000 or $30,000 grossed-up cap. The Government views the salary packaging of these items to be an unintended outcome of the availability of these concessions and, through the introduction of the $5,000 grossed-up cap, seeks to limit the tax leakage. Where the $5,000 grossed-up cap is exceeded, the excess benefits will count towards the existing general caps.

These changes will take effect from the FBT year commencing 1 April 2016. The announcement is silent on whether existing salary sacrifice arrangements, or those entered into prior to 1 April 2016, will be grandfathered for concessional treatment post-1 April 2016, in a similar manner to previous FBT amendments impacting salary sacrifice arrangements.

Changes to the taxation of employee share schemes

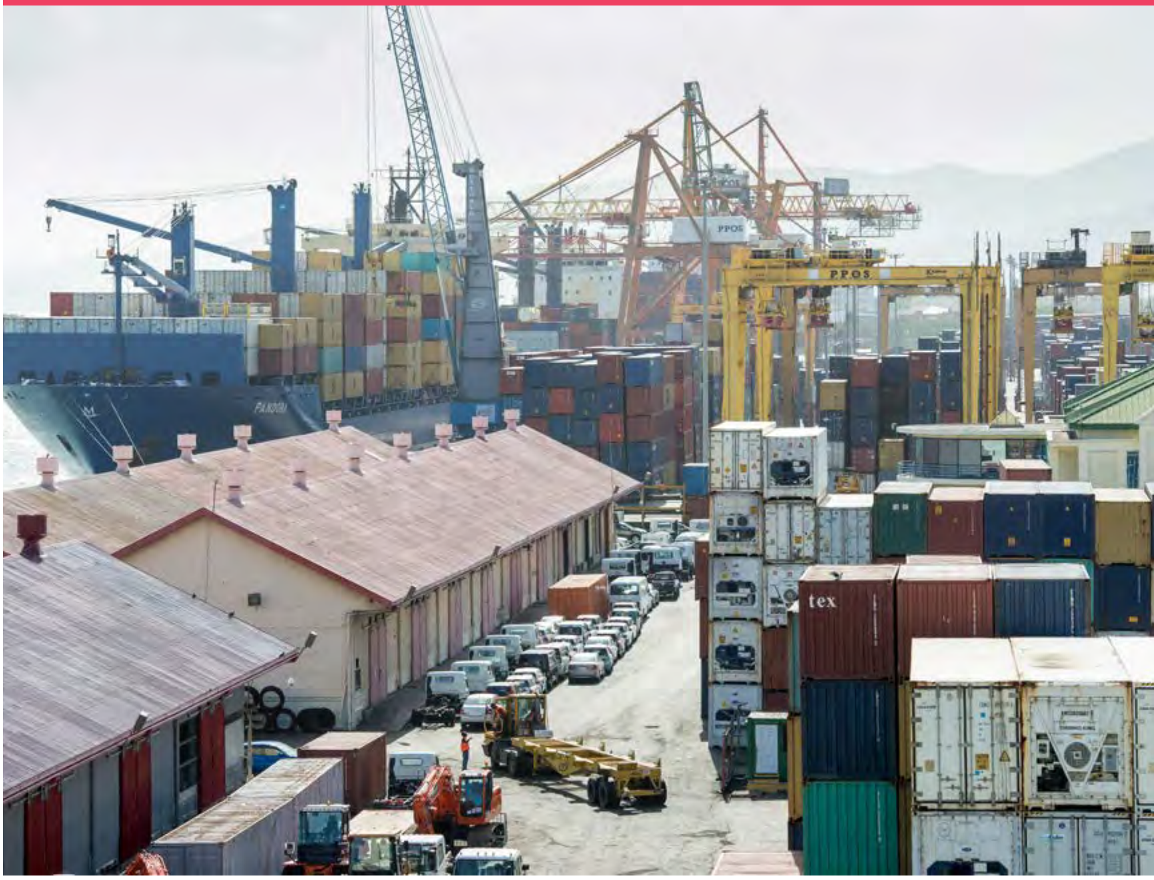
Legislation to implement changes to the taxation of employee share schemes is currently before Parliament following consultation on the draft legislation released earlier this year. Further to this consultation, the Government has in the Budget announced that the following additional amendments will be made to the taxation of employee share schemes:

- excluding eligible venture capital investments from the aggregated turnover test and grouping rules (for the start-up concession)
- providing the capital gains tax 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
- allowing 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.

These changes will impact start-up organisations that issue shares to their employees. Prior to the changes, start-up employees that are issued shares or options had to pay income tax at the time they received those shares or options, regardless of whether they had yet realised any financial benefit.

These changes are intended to make employee share schemes more accessible and provide additional tax assistance to eligible companies through a start-up concession.

These changes will take effect with the remainder of the enabling legislation from 1 July 2015.



Other tax measures

Other tax-related measures announced in the 2015-16 Federal Budget include:

- The Government has announced that accelerated depreciation on certain drought preparedness assets will be available for primary producers for income years commencing on or after 1 July 2016. Specifically, primary producers will be able to claim an immediate deduction for capital expenditure on fencing and water facilities (eg dams, tanks, bore, irrigation channels, pumps, water towers, windmills). Fodder storage assets will be depreciated over three years. This measure will also form part of the Government's White Paper on Agricultural Competitiveness.
- The mandatory start date for the Managed Investment Trust (MIT) Regime will be deferred to 1 July 2016, with an optional early start date of 1 July 2015. This transitional period will provide MITs with additional time to make amendments to trust deeds and systems if necessary. The Government has also announced that it will extend the exclusion from the interim trust streaming provision for MITs to include the 2015-16 income year.
- The Government has announced that the Global Infrastructure Hub will be exempt from income tax for the period from 24 December 2014 to 30 June 2019.
- $127.6 million will be provided over four years to a Serious Financial Crime taskforce for investigations and prosecutions targeting superannuation and investment fraud, identity crime and tax evasion.
- $130.9 million will be provided over four years to the ATO to reduce red tape and deliver an improved experience for clients in their dealings with the ATO including a digital by default service for providing information and making payments; improved data and analytics infrastructure; and enhancing the myTax system.
- An additional $14.6 million will be provided over five years to support the Inspector-General of Taxation.

Forward tax agenda

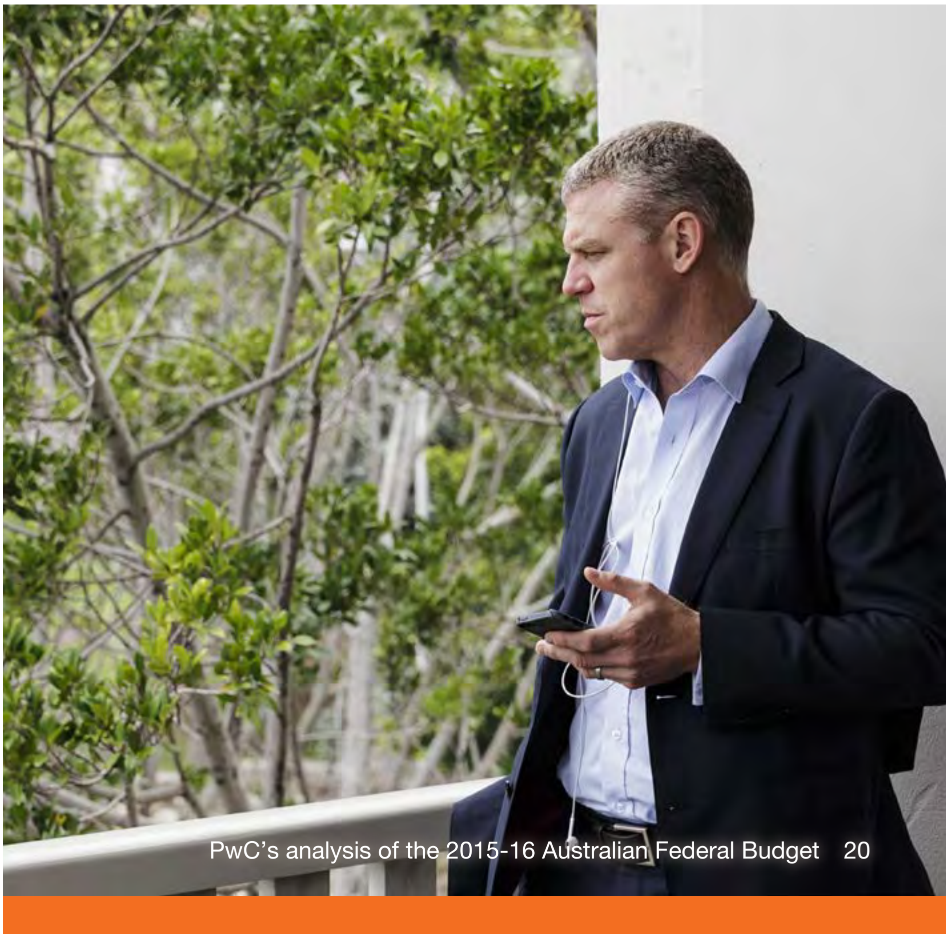
It may come as a surprise to some that this year's Federal Budget contained a number of significant tax announcements quite soon after the Government kicked off the process for development of its Tax Reform White Paper. This poses an interesting dilemma for the Government – to undertake a process of comprehensive reform in the midst of political pressure to respond to high profile issues such as continued budget deficits and revenue shortfalls at both the Federal and State levels, housing affordability, and perceived 'tax avoidance' by multinational corporations.

The release of the Tax Discussion Paper on 31 March 2015 marked the formal start of the Tax Reform White Paper process to create 'a better tax system that delivers taxes which are lower, simpler, fairer'. This process will involve:

1. Consultation on the issues and questions raised in the Discussion Paper. Submissions in response to the Discussion Paper can be made by 1 June 2015. Read more about the Discussion Paper in PwC's publication, Tax Reform White Paper process begins with release of Discussion Paper.
2. An Options (Green) Paper is due in the second half of 2015. This will take into account the submissions received on the Tax Discussion Paper and will outline a range of tax reform options which will also be subject to further consultation.
3. The Tax Reform White Paper, which will outline the Government's tax reform proposals which it will take to the Federal Election, due in late 2016.

It is clear that the process for tax reform is a long one, which requires the engagement of the community to generate support for comprehensive change. As this process progresses, however, the Government cannot ignore issues with the current tax system that undermine its integrity or contribute to other problem areas.

PwC strongly supports the development of a better tax system for Australia, and remains committed to joining the national conversation on tax reform. However, in the meantime, the challenge for the Government is to exercise restraint in tinkering with the current system, and ruling out certain tax changes. Comprehensive tax reform can only occur if all options are on the table.



Pipeline of tax measures

In addition to the measures announced in this year's Federal Budget, below is a summary of other significant tax measures that have been announced but not yet enacted.

Measure	Status
Amendments to the tax consolidation regime	Exposure draft legislation regarding five previously announced measures was released for public consultation on 28 April 2015. See PwC's TaxTalk Alert for further details of these measures. It is understood that Treasury will conduct a review of the consolidation regime during 2015, and it is hoped that this will include consideration of the remaining recommendations from the Board of Taxation's Post-Implementation Review into Certain Aspects of the Consolidation Regime and Post-Implementation Review into Certain Aspects of the Consolidation Tax Cost Setting Process
A new tax regime for Managed Investment Trusts	Exposure draft legislation was released for public consultation on 9 April 2015. The Government has announced in this year's Federal Budget that the mandatory start date of these measures will be deferred until 1 July 2016, with an optional early start date of 1 July 2015
Amendments to the existing Investment Manager Regime to implement the proposed third and final element of that regime	Exposure draft legislation was released for public consultation on 12 March 2015. Amending legislation is expected to be introduced into Parliament during the 2015 Winter Sittings
Amendments to the Taxation of Financial Arrangements (TOFA) tax hedging provision	Treasury conducted a review of the TOFA regime in the second half of 2014, and these measures were considered as part of that review. Whilst the outcomes of that broader review are not yet known, Government is expected to proceed with these amendments to the hedging provisions at some stage
Amendments to the loss recoupment rules for companies with multiple share classes	Amending legislation is expected to be introduced into Parliament during the 2015 Winter Sittings
Look through treatment for 'earn-out' arrangements	Exposure draft legislation was released for public consultation on 23 April 2015
Limiting the scope of the integrity provisions in the debt/equity rules	The Government released the Board of Taxation's accelerated report on these provisions on 2 April 2015. The Government has advised that it will consult on draft legislation to implement the Board's recommended approach in coming months
A targeted integrity measure for Offshore Banking Units	Exposure draft legislation was released for public consultation on 12 March 2015. Amending legislation is expected to be introduced into Parliament during the 2015 Winter Sittings
A statutory remedial power to be given to the Commissioner of Taxation to address certain unforseen or unintended outcomes in the tax and superannuation law in a manner that is favourable to taxpayers	On 1 May 2015, Assistant Treasurer Josh Frydenburg announced this new measure. Consultation on draft legislation is expected to commence shortly
Changes to the taxation of Employee Share Schemes	Amending legislation is currently before Parliament and scheduled to commence from 1 July 2015. Additional changes to these rules were announced in this year's Federal Budget
Improving compliance through third party reporting and data matching	Unknown. The start date of this measure was deferred to 1 July 2016 in last year's Federal Budget
Foreign resident capital gains tax withholding regime	The status of this measure, announced in the 2013-14 Federal Budget to apply from 1 July 2016, is unknown

The Government currently has a back-log of reports prepared by the Board of Taxation which are yet to be publicly released. These include reports in relation to reviews of the remaining aspects of the debt and equity tax rules, the thin capitalisation arm's length debt test, Collective Investment Vehicles, the deemed dividend rules applicable to private companies and the tax treatment of Islamic finance products.

We hope that the next six months sees greater progress towards finalisation of these outstanding measures.

Contacts

For further information, contact your usual PwC advisor or one of these contacts:

Managing Partner Tax and Legal

Tom Seymour
+61 (7) 3257 8623
tom.seymour@au.pwc.com

General

Jeremy Thorpe
+61 (2) 8266 4611
jeremy.thorpe@au.pwc.com

Craig Fenton
+61 (7) 3257 8851
craig.fenton@au.pwc.com

Large business and multinationals

Peter Collins
+61 (3) 8603 6247
peter.collins@au.pwc.com

Michael Bersten
+61 (2) 8266 6858
michael.bersten@au.pwc.com

Pete Calleja
+61 (2) 8266 8837
pete.calleja@au.pwc.com

Private business

David Wills
+61 (3) 8603 3183
david.a.wills@au.pwc.com

Kel Fitzalan
+61 (2) 8266 1600
kel.fitzalan@au.pwc.com

Individuals

Paul Brassil
+61 (2) 8266 2964
paul.brassil@au.pwc.com

Naree Brooks
+61 (3) 8603 1200
naree.brooks@au.pwc.com

Indirect taxes

Peter Konidaris
+61 (3) 8603 1168
peter.konidaris@au.pwc.com

Suzi Russell-Gilford
+61 (2) 8266 1057
suzi.russell-gilford@au.pwc.com

Employment taxes

Greg Kent
+61 (3) 8603 3149
greg.kent@au.pwc.com

Norah Seddon
+61 (2) 8266 5864
norah.seddon@au.pwc.com

Other tax measures

Ken Woo
+61 (2) 8266 2948
ken.woo@au.pwc.com

Mike Davidson
+61 (2) 8266 8803
m.davidson@au.pwc.com

Forward tax agenda

Paul Abbey
+61 (3) 8603 6733
paul.abbey@au.pwc.com

pwc.com.au/tax/federal-budget