

Other News

1 February 2014

Government's position on unlegislated tax measures

On 14 December 2013, the Assistant Treasurer released the final outcome of the Government's review of 92 previously announced but not enacted tax measures. In particular, the announcement contains the Government's decision on 64 measures listed in its 6 November 2013 announcement for which a decision had not yet been made at that time.

The following is a sample of the measures that are on the finalised '**do not proceed**' list:

- research and development tax incentive – quarterly credits
- symmetric treatment of bad debts
- a number of Goods and Services Tax (GST) measures following Board of Taxation report on GST administration
- consolidation and demergers
- consolidation and collection of tax liabilities
- modernisation of the Controlled Foreign Company provisions

- tax exemption for foreign governments (sovereign immunity)
- enhancing venture capital tax arrangements
- better targeting of not-for-profit concessions (but alternative options will be explored), and
- a number of superannuation measures.

Measures that **will proceed** include:

- amendments to the Taxation of Financial Arrangements (TOFA) tax hedging provisions
- 'look through' treatment for earn out arrangements
- amendments to the loss recoupment rules for multiple share classes
- limiting the scope of the integrity provision in the debt/equity rules, and
- GST reverse charge for going concerns.

The Government intends that the bulk of legislation should be passed by the Parliament during 2014, restoring simplicity and fairness in the Australian tax system, and is developing a

legislative measure to protect taxpayers who may have self-assessed on the basis of an announced measure that will no longer proceed.

It is also noted that Treasury will conduct a broad review of the TOFA regime in the second half of 2014.

Discussion paper on Superannuation

On 28 November 2013, the Assistant Treasurer released a discussion paper entitled '*Better regulation and governance, enhanced transparency and improved competition in superannuation*' for public consultation. In his media statement the Assistant Treasurer said that the release of the paper "meet(s) the Government's election commitments to improve governance, increase transparency of information provided by super funds and boost competition and transparency in the selection process of default super funds in modern awards." The Assistant Treasurer went on to state that "this Government is committed to improving superannuation governance which may be aligned with the corporate governance principles applicable to, for example,

ASX-listed companies or APRA-regulated entities, such as in the banking and finance industry."

The discussion paper also examines the issue of competition in default super funds in modern awards and seeks views on a possible deferral of the commencement date of the *MySuper* transparency measures beyond 1 July 2014.

Consultation for the paper will be open until 12 February 2014.

Terms of reference for Agriculture white paper

On 9 December 2013 the Commonwealth Minister for Agriculture announced the terms of reference for an agriculture white paper which will be released towards the end of 2014. In his media statement the Minister said that "the goal of the paper would be to generate jobs, impact farm gate returns, investment and economic growth in one of Australia's key export industries."

Under the proposed terms of reference, the White Paper will consider:

- food security in Australia and the world through the creation of a stronger and more competitive agriculture sector
- means of improving market returns at the farm gate, including through better drought management
- access to investment finance, farm debt levels and debt sustainability
- the competitiveness of the Australian agriculture sector and its relationship to food

and fibre processing and related value chains , including achieving fair returns

- the contribution of agriculture to regional centres and communities, including ways to boost investment and jobs growth in the sector and associated regional areas
- the efficiency and competitiveness of inputs to the agriculture value chain — such as skills, training, education and human capital; research and development; and critical infrastructure
- the effectiveness of regulations affecting the agriculture sector, including the extent to which regulations promote or retard competition, investment and private sector-led growth
- opportunities for enhancing agricultural exports and new market access, and
- the effectiveness and economic benefits of existing incentives for investment and jobs creation in the agriculture sector.

Phase-out of the net medical expenses tax offset

On 11 December 2013 the Government released exposure draft legislation and explanatory materials in respect of the 2013-14 Federal Budget measure to phase-out the net medical expenses tax offset (NMETO). Submissions in respect of the proposed legislation were to be submitted to Government by 17 January 2014.

The proposed measure amends the tax law to phase-out the NMETO by the end of the 2018-19 income year. During the income years 2013-14 to 2018-19, the offset will be subject to two sets of transitional arrangements:

- From the 2013-14 income year until the end of the 2018-19 income year taxpayers can only claim the NMETO for medical expenses that both meet the current definition and eligibility requirements and relate to disability aids, attendant care or aged care.
- For the 2013-14 income year and 2014-15 income year, taxpayers will be eligible to claim the full range of medical expenses (as defined currently) but only if they have received an amount of the NMETO in the previous income year (or in both 2012-13 and 2013-14 in respect to claims in the 2014-15 income year).

Notice of a Data Matching Program - Credit and Debit Card Data Matching Program

The Australian Taxation Office (ATO) has published a Notice in the Commonwealth Gazette advising that it will request and collect data relating to credit and debit card sales of entities for the periods from 1 July 2012 to 30 June 2014 from the following financial institutions:

- Commonwealth Bank of Australia
- St George Bank
- Westpac Banking Corporation

- Australia and New Zealand Banking Group Limited
- National Australia Bank Limited
- Bendigo and Adelaide Bank Limited
- Bank of Queensland Limited
- BWA Merchant Services Pty Ltd
- American Express Australia Ltd
- Diners Club Australia

The acquired data will be electronically matched with certain sections of ATO data holdings to identify non-compliance with registration, reporting, lodgment and payment obligations under taxation law. The program is called the *Credit and Debit Card Data Matching Program* and the ATO anticipates that records relating to approximately 900,000 merchants will be matched under the program.

Deductible gift recipient status for Prince's Charities Australia

On 17 December 2013 the Assistant Treasurer released a media statement in which he welcomed the announcement, in the Federal Government's *Mid-Year Economic and Fiscal Outlook 2013-14*, that Prince's Charities Australia will be able to accept tax deductible donations from 1 January 2014. The Assistant Treasurer said that "(I)t is a welcome development that His Royal Highness, the Prince of Wales, has chosen to expand his very substantial charitable activities to Australia."

Subject to an amendment to the *Income Tax Assessment Act 1997* being passed by the Parliament to specifically name the Prince's Charities Australia as a deductible gift recipient (DGR), Australian taxpayers that wish to support the Prince's Charities Australia will receive tax deductions for gifts made after 1 January 2014.

Financial System Inquiry

On 20 December 2013, the Treasurer announced the final terms of reference for the Federal Government's Financial System Inquiry, and also announced the members of the Inquiry panel. The panel is to be chaired by Mr David Murray AO.

The terms of reference for the Inquiry have been finalised after input from a number of organisations and individuals during the consultation period.

Under the terms of reference, the Inquiry is charged with examining how the financial system could be positioned to best meet Australia's evolving needs and support Australia's economic growth.

In addition to identifying and considering the emerging opportunities and challenges that are likely to drive further change in the global and domestic financial system, the terms of reference require the Inquiry to recommend policy options that:

- promote a competitive and stable financial system that contributes to Australia's productivity growth
- promote the efficient allocation of capital and cost

efficient access and services for users

- meet the needs of users with appropriate financial products and services
- create an environment conducive to dynamic and innovative financial service providers, and
- relate to other matters that fall within this terms of reference.

The terms of reference also include a requirement for the Inquiry to take account of the regulation of the general operation of companies and trusts to the extent this impinges on the efficiency and effective allocation of capital within the financial system, to examine the taxation of financial arrangements, products or institutions to the extent these impinge on the efficient and effective allocation of capital by the financial system, and to provide observations that could inform the Government's Tax White Paper.

The Inquiry panel has been asked to release an interim report by mid-2014 which is to be followed by a second round of submissions before the Inquiry makes its final report to the Government, expected to be delivered by November 2014.

In his media statement the Treasurer said that he would be announcing an international advisory panel early in 2014.

Takeovers Panel consultation paper on dividends

On 10 January 2014, the Takeovers Panel issued a draft Guidance Note on the disclosure of franking credit adjustments to a takeover bid price for takeovers governed by the *Corporation Act 2001 – Cth*. Generally, these adjustments are included as a component of the bid price in circumstances where the target entity pays franked dividends during the offer period. The draft Guidance Note provides the view of the Takeovers Panel as to the circumstances where an adjustment may be made, and provides illustrations as to the disclosure that needs to be provided to bidders. The draft Guidance Note clarifies that the value of franking credits attached to a franked dividend paid by a target during a bid cannot be included in the ‘headline’ offer price.

The Takeovers Panel has requested comments from interested parties as to whether the Guidance Note should be adopted as policy. Such comments are due by 28 February 2014.

Appointment of new Second Commissioner of Taxation

On 19 December 2013, the Assistant Treasurer announced that the newly appointed Second Commissioner of Taxation is Andrew Mills who is replacing Bruce Quigley who retired from this position on 4 December 2013. The appointment is for a term of seven years.

Exposure draft law: Superannuation - changes to lost member small account threshold

On 16 December 2013, the Government released for public consultation an exposure draft of the *Tax and Superannuation*

Laws Amendment (2014 Measures No. 2) Bill 2014: lost member small account threshold and the accompanying explanatory material.

Under existing law, small lost superannuation accounts with balances of less than \$2,000 must be transferred to the Commissioner of Taxation.

The exposure draft legislation gives effect to the Government’s decision, announced on 6 November 2013, to proceed with the former Government’s proposal to increase the lost member small account threshold in two stages. It is proposed that the threshold will increase from \$2,000 to \$4,000 on 31 December 2015 and then to \$6,000 on 31 December 2016. The stated intent of this policy is to protect the balances of small accounts from erosion by fees and insurance premiums.

Let’s talk

For a deeper discussion of how these issues might affect your business, please contact:

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