

2009 FEDERAL BUDGET

Business Taxation

Small Business and General Business Tax Break

The Government has announced the one-off bonus tax deduction available to small businesses (less than \$2 million turnover) under the Small Business and General Business Tax Break will increase to 50%, where a small business acquires an eligible asset between 13 December 2008 and 31 December 2009, and the asset is installed or ready for use by 31 December 2010.

Other businesses (greater than \$2 million turnover) are still eligible for the previously announced tax breaks.

The tables below illustrate the additional concessions available and the relevant dates and tax years:

Small Businesses

(Minimum spend requirement = \$1,000)

| Asset acquired between 13 December 2008 and 31 December 2009 and installed by: | Investment allowance bonus deduction | Year of bonus tax deduction |
|--|--------------------------------------|-----------------------------|
| 30 Jun 2009 | 50% | 2008/2009 |
| 30 Jun 2010 | 50% | 2009/2010 |
| 31 Dec 2010 | 50% | 2010/2011 |

Other Businesses

(Minimum spend requirement = \$10,000 per eligible asset)

| Asset acquired between 13 December 2008 and 30 June 2009 and installed by: | Investment allowance bonus deduction | Year of bonus tax deduction |
|--|--------------------------------------|-----------------------------|
| 30 Jun 2009 | 30% | 2008/2009 |
| 30 Jun 2010 | 30% | 2009/2010 |
| 31 Dec 2010 | 10% | 2010/2011 |

| Asset acquired between 1 July 2009 and 31 December 2009 and installed by: | Investment allowance bonus deduction | Year of bonus tax deduction |
|---|--------------------------------------|-----------------------------|
| 30 Jun 2010 | 10% | 2009/2010 |
| 31 Dec 2010 | 10% | 2010/2011 |

ATO Strategic Compliance Package

The ATO will receive funding of \$302.1m over 4 years to ensure that, "as Australia's economy recovers, wealthy Australians and large and medium sized businesses continue to meet their tax obligations". The ATO will focus on high income company executives and directors, and individuals with a net wealth between \$5m-\$30m, who engage in tax minimisation strategies.

The ATO will address the risk that large and medium businesses seek to increase

market share and profits through tax minimisation as the economy recovers. The ATO will focus on cross-border financial arbitrage, profit shifting and the treatment of gains and losses as well as infrastructure and investment claims.

Repeal of unlimited amendment periods

The Government announced that it will repeal certain provisions in the income tax laws that currently provide the Commissioner with an unlimited period in which to amend an item in a taxpayer's income tax return.

The Government stated that the amendments will take effect from the date of Royal Assent of the relevant enabling legislation.

Assets and deemed dividend rules

The Government will extend the deemed dividend rules to payments by way of a licence or right to use real property and chattels, such as cars, boats and real estate.

This measure will reduce the opportunities for private companies to allow their shareholders or associates to use company assets for free, or at less than their arm's length value, without paying tax.

It is proposed this measure will apply from the 2009/10 income year.

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CGT Limited Rollover Relief for Fixed Trusts

The Government will introduce a limited CGT rollover for assets transferred between fixed trusts, ie trusts that have the same beneficiaries with the same entitlements and no material discretionary elements.

Typically, the transfer of assets from one trust to another will trigger a CGT taxing point. As a result of this measure, trustees of eligible trusts will be able to defer the CGT consequences of the asset transfer until the receiving trust subsequently deals with the asset. This will allow eligible trusts to restructure without immediate CGT consequences.

The measure will be accompanied by appropriate integrity rules and rollover relief will apply from 1 November 2008.

New R & D Tax Credit to replace existing Concession

The Government will replace the existing R&D Tax Concessions with a new R&D Tax Credit with effect from 1 July 2010. Key features of the new credit are:

- the R&D Tax Credit will consist of a 40% non-refundable tax credit and a 45% refundable tax credit for firms with a turnover of \$20m or less. This means that firms will receive a tax refund of 45% of their R&D

spending when they file their tax return;

- businesses with a turnover of more than \$20m will be able to access a 40% non-refundable credit - equivalent to a tax concession of 133%;
- the new refundable tax credit will not be subject to an expenditure cap;
- the refundable credit will be available to small companies in tax loss, with no limit on the level of R&D expenditure they undertake;
- the definition of R&D that is eligible for the new R&D Tax Credit will be tightened to ensure that the support is better targeted. R&D expenditure undertaken in Australia by foreign-owned firms (ie where the intellectual property is held offshore) will be eligible for the 40% non-refundable tax credit.

Since the program does not start until 1 July 2010, as an interim measure, the Government will lift the expenditure cap on eligible R&D that can be claimed under the existing R&D Tax Offset from \$1m to \$2m with effect from 1 July 2009.

Off market share buy backs

The Government and the ATO have been concerned about tax leakage created by off-market share buy-backs. This can occur where shareholders either

receive dividend franking credit benefits or capital loss benefits as a result of a buy back.

In order to address these issues, the Government will implement the recommendations of the Board of Taxation and further details will be released by Treasury before the end of May.

Use of non-commercial losses restricted

The Government will tighten the application of the rules on the use of non-commercial losses to prevent high-income individuals from offsetting excess deductions from non-commercial business activities against salary and other income.

From 1 July 2009, taxpayers with an adjusted taxable income of over \$250,000 will only be able to deduct expenses from non-commercial business activities against the income from those activities. Any excess deductions will be quarantined to the business activity.

Taxpayers will still be able to apply to the Commissioner for relief from the rules if there are exceptional circumstances, or because the nature of the activities means that a taxpayer is temporarily carrying on an uncommercial business but the activities they are undertaking are nonetheless independently assessed as commercially viable.

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Superannuation Measures

Changes to concessional contributions cap

The Government will cut the superannuation concessional contributions cap to \$25,000 per annum (down from \$50,000 per annum) from 1 July 2009.

The transitional concessional contributions cap, which applies until the 2011/12 income year, for individuals aged 50 to 74, will be reduced to \$50,000 per annum (down from \$100,000 per annum).

From 1 July 2012, the concessional contributions cap for those aged 50 and over will revert to the lower \$25,000 cap (or applicable indexed amount at that time).

The Government has not amended the non-concessional contributions cap. The annual cap on non-concessional contributions is \$150,000 per annum (or \$450,000 over 3 years) for the 2008/2009 financial year and will remain at that level in 2009/2010. In the future, the cap will be calculated as six times the level of the (indexed) concessional contributions cap.

Superannuation co-contribution

The Government has announced that it will temporarily reduce the superannuation government co-

contribution matching rate that is payable on eligible personal superannuation contributions, with effect from 1 July 2009.

The temporary matching rates as proposed are:

- for the 2009/10, 2010/11 and 2011/12 income years, \$1 for each dollar of contribution, up to a maximum of \$1,000 per annum;
- for the 2012/13 and 2013/14 income years, the rate is \$1.25 for each dollar of contribution, up to a maximum of \$1,250 per annum; and
- for 2014/15 and later income years, the rate is \$1.50 for each dollar of contribution, up to a maximum of \$1,500 per annum.

Reduction in pension drawdown

The Government will extend its decision to reduce by 50% the minimum annual payment amounts for account-based pensions for the 2009/10 income year. That is, self-funded retirees will only have to draw down half of the minimum amounts from their account-based pensions for 2009/10.

Other Measures

Increase in ASIC fees

In the 2009/10 Federal Budget, the Government stated that it will

index fees and charges collected by the Australian Securities and Investments Commission (ASIC) to the Consumer Price Index from the 2010/11 income year

Personal Taxation

Foreign employment income

The Government has announced changes to the tax treatment of foreign employment income.

Under the proposed measures, foreign employment income will generally be taxable, but taxpayers will be entitled to a tax offset for foreign tax paid on the foreign employment income.

The proposed measures will take effect from 1 July 2009

Employee share schemes

The Government has announced that all discounts on shares and options provided under an employee share scheme, whether qualifying or non-qualifying, will be assessed in the income year in which they are acquired. That is, employees will no longer be able to elect to defer taxation on their discount to a later time.

The Government will also limit access to the \$1,000 upfront tax exemption to employees with an adjusted taxable income of less than \$60,000.

These measures will apply to shares and options acquired after 7.30 pm AEST on 12 May 2009.

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Private health insurance rebate

The Government announced that high income earners will receive a reduction in their private health insurance rebate and face an increase in Medicare levy surcharge should they opt out of their health cover.

From 1 July 2010, the Government will introduce three new 'Private Health Insurance Tiers' for high income earners:

- **Tier 1:** for singles earning more than \$75,001 (couples/families \$150,001), the rebate will be 20% for those up to 65 years (25% for those over 65, and 30% for those over 70 years). The Medicare levy surcharge for avoiding private health insurance will remain at 1%.
- **Tier 2:** for singles earning more than \$90,001 (couples/families \$180,001), the rebate will be 10%, for those up to 65 years (15% for those over 65, and 20% for those over 70 years). The surcharge for avoiding private health insurance will be increased to 1.25%.
- **Tier 3:** for singles earning more than \$120,001

(couples/families \$240,001), no rebate will be provided. The surcharge for avoiding private health insurance will be increased to 1.5%.

Low and middle-income earners are not affected by the proposed changes.

Seniors Health Card

The Government said that it will not include gross income from superannuation income streams from a taxed source when determining an individual's eligibility for the Commonwealth Seniors Health Card, a measure which was due to come into effect on 1 July 2009.

However, the Government will proceed to include income that is salary sacrificed to superannuation in the income assessment, which will take effect from 1 July 2009.

Medicare levy low-income thresholds

The Government has released the Medicare levy low-income thresholds for the 2008/09 income year. The threshold will increase for singles to \$17,794 and to \$30,025 for individuals who are members of a family.

The additional amount of threshold for each dependent child or student will also be increased to \$2,757.

The Medicare levy low-income threshold for pensioners below Age Pension age will also be increased from 1 July 2008 to \$25,299.

Seniors Supplement for self-funded retirees

The Government will provide a Seniors Supplement from 20 September 2009.

The Supplement will be available to self-funded retirees who are eligible for the Commonwealth Seniors Health Card or the Department of Veterans' Affairs Gold Card with current Seniors Concession Allowance. It incorporates existing payments of Seniors Concession

Allowance and the higher rate of Telephone Allowance.

The Seniors Supplement will be \$790.40 a year for singles and \$1,190.80 a year for couples combined. Payments will be made quarterly.

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