BUDGET UPDATE

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2015/16 Federal Budget

Introduction

Generally speaking, the 2015/16 Federal Budget has a dual focus on multi national organisations with turnover greater than A$1 billion and on Australian small businesses with annual turnover of less than A$2 million.

In addition, changes speculated in the financial media over the last few months – such as to negative gearing, superannuation taxes and dividend imputation – were not been mentioned in last night's Budget.

As also expected, from 1 July 2017, GST will apply to intangible digital products (such as music, movie and book downloads) provided by overseas suppliers.

The following is an overview of some of the measures relevant to business taxpayers.

Multinational anti-avoidance measures

The Government has put multinational corporations on notice that it is prepared to take its first practical step towards minimising the diversion of profits away from Australia to low tax (or no tax) jurisdictions. In particular, the Government will be scrutinising the tax affairs of 30 multinational companies with global revenue over A$1 billion.

Part IVA of the *Income Tax Assessment* Act 1936 (Cth) will be amended to include specific anti-avoidance provisions targeting multinational corporations that avoid having a taxable presence in Australia by design. The new anti-avoidance laws will apply where:

- the activities of an Australian company or other entity are integral to an Australian customer's decision to enter into a contract;
- the contract is formally entered into with a foreign related party to that entity; and
- the profit from the Australian sales is accounted for overseas and subject to no or low global tax.

In circumstances where these arrangements are entered into for the sole or dominant purpose of avoiding Australian company tax, this anti-avoidance measure will ensure those profits derived from Australian sales are brought to tax in Australia.

Multinationals who are found to be involved in multinational tax avoidance and profit scheme may also face hefty penalties of up to 100% of the tax they owe, plus interest.

It is anticipated that the new multinational anti-avoidance measures will take effect from 1 January 2016.

Country by Country reporting

In addition to the new multinational anti-avoidance measures, the Government will implement the OECD 's new transfer pricing documentation standards from 1 January 2016. Under the new documentation standards, the ATO will receive the following information on large companies that operate in Australia:

- a Country by Country Report showing information on the global activities of the multinational, including the location of its income and taxes paid;
- a master file containing an overview of the multinational's global business, its organisational structure and its transfer pricing policies; and
- a local file that provides detailed information about the local taxpayer's intercompany transactions.

Small businesses

Effective from 12 May 2015 until 30 June 2017, small businesses (where annual turnover is less than $2 million) will get an immediate tax deduction for each and every asset they buy costing less than $20,000. This $20,000 limit applies to each individual item.

Any assets over $20,000 can be pooled together and depreciated at the same rate. These assets are depreciated at 15 per cent in the first income year, and 30 per cent per year thereafter. If the value of the pool is below $20,000 until 30 June 2017 it can be immediately deducted too.

A 5 per cent tax discount to unincorporated businesses with annual turnover less than $2 million from 1 July 2015. This discount will be capped at $1,000 per individual per income year.

From 1 July 2016, small business will be able to change their legal structure without attracting a capital gains tax liability.

Start-ups and entrepreneurship

From July 2016, start-up businesses will be permitted to make an immediate deduction for the professional costs (e.g. accounting and legal fees) associated with starting a business (rather than depreciating the costs over five years). The Government has also affirmed its commitments to deregulate capital raising compliance and disclosure obligations for crowdfunding and to delay the taxing point in respect of shares issued under employee share schemes to when the employee actually receives the financial benefit of those shares.

Research and development expenditure cap

As previously announced, the Government will introduce a $100 million cap on the amount of eligible research and development (**R&D**) expenditure which gives rise to a tax offset effective in respect of the income years commencing on and from 1 July 2014. R&D expenditure in excess of the cap will receive a lower tax offset at the company tax rate.

Not for profits

Currently certain not for profit organisations are able to allow their employees to salary package benefits including 'meal entertainment', holidays, cruises, weddings, and meals and alcohol in restaurants. These benefits will now be subject to a new grossed-up exemption cap of $5,000.

GST — not proceeding with a reverse charge for 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.

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Managed investment trusts — transition period to apply the new tax system

The Government is proceeding with the implementation of a new tax system for managed investment trusts with a twelve month transition period. The draft legislation was released in April 2015 and was intended to take effect from 1 July 2015. The new rules will now apply from 1 July 2016. "Managed investment trusts" can choose to apply them from the earlier start date of 1 July 2015.

Personal income tax — modernising the methods used for calculating work-related car expense deductions

The Government will modernise the methods of calculating work-related car expense deductions from the 2015-16 income year. The '12 per cent of original value method' and the 'one-third of actual expenses method', which are used by less than two per cent of those who claim work-related car expenses, will be removed. The 'cents per kilometre method', will be modernised by replacing the three current rates based on engine size with one rate set at 66 cents per kilometre to apply for all motor vehicles, with the Commissioner of Taxation responsible for updating the rate in following years. The 'logbook method' of calculating expenses will be retained. These changes will not affect leasing and salary sacrifice arrangements.

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