ALERT

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Proposed 2016 Superannuation Reforms Modified and Postponed Until 1 July 2017

22 September 2016

Background

The 2016/17 Federal Budget contained what has proven to be a collection of contentious measures aimed at reforming Australia's superannuation system, including:

- a proposed $500,000 lifetime cap on non-concessional (after-tax) contributions;
- a reduction in the annual concessional (before-tax) contributions cap to $25,000; and
- a $1.6 million cap on the total amount of superannuation that can be transferred to a tax-free retirement account,

(**Budget Measures**).

On 15 September 2016, the Federal Treasurer issued a press release (see: treasury.gov.au) advising that it has dropped certain elements of the Budget Measures – including, most notably, the $500,000 lifetime cap on non-concessional contributions. However, it still intends to make a number of changes to the various rules and caps that currently apply. The key features of the government's revised superannuation package are as follows.

Revised reforms

Caps

From 1 July 2017, the following caps will come into operation:

- a significantly lower non-concessional contributions cap of $100,000 ($300,000 using the 'bring forward' rule), down from the $180,000 existing cap ($540,000 using the 'bring forward' rule), and a nil cap if total superannuation is greater than $1.6 million;
- a blanket $25,000 cap on annual concessional contributions (regardless of age); and
- a maximum cap of $1.6 million on transfers into a tax-free retirement account (as proposed in the Budget Measures).

Individuals who have a total superannuation balance of less than $500,000 and who have not exhausted their $25,000 annual concessional contributions cap in a particular year will be allowed to carry forward unused concessional contributions cap amounts for up to five years from the 2018/19 income year.

Other proposed changes

Also from 1 July 2017, the following changes to the superannuation framework will come into effect:

- a legislative requirement for all superannuation legislation to be compatible with the 'primary obligation of superannuation' – namely, 'to provide income in retirement to substitute or supplement the age pension' – preventing legislation from facilitating other objectives (eg succession planning);
- an increase in the tax rate on assets underpinning a Transition to Retirement Income Stream to 15% (from 0%);

and

- a reduction in the threshold for triggering the 15% extra concessional contributions tax on high income earners to $250,000 annual income (from $300,000).

Action

Individuals should consider maximising their concessional and non-concessional superannuation contributions, having regard to the existing caps in place for the 2016/17 income year. In particular, the existing $540,000 'bring forward' non-concessional cap remains available for 2016/17 and could offer tax-planning opportunities in respect of lump sum cash or *in specie* superannuation contributions.

Given the debate regarding these measures to date, we recommend that individuals keep informed of the status of the proposed changes and confirm that they have in fact been legislated and are in force before taking any action to act in accordance with those changes. In any event, individuals should be prepared to comply with contributions caps that have been revised downwards from the 2017/18 income year.

Should you have any queries in relation to this alert, please contact Revenue Law team.

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