

ALERT

10 MAY 2012

Australian Federal Budget 2012-2013

On Tuesday 8 May, Treasurer Wayne Swan released the Australian Federal Budget for 2012-2013 (**Budget**).

As expected, the Treasurer announced a projected surplus in 2012-13. The fiscal recovery from 2011-12 (equivalent to 3.1% of national income) is the largest since the early 1950s. Income redistribution was a key theme; surprises included the decision to scrap the planned 1% cut in company tax rates and defer a planned lift in foreign aid (saving \$4.6 billion and \$2.9 billion respectively over four years).

After last year's \$44 billion budget deficit, the government has found \$33.6 billion of savings to meet the promised surplus. The question remains: is the surplus real or simply illusory?

It is important to remember that the razor-thin surplus of \$1.5 billion projected for 2012-13 (rising to \$2.0 billion the year after) is just that – a projection. A surplus is not yet assured and revenue weakness is expected to continue in the immediate future. This is true for many reasons, including that the profit-related taxes – company and superannuation taxes, along with the new mining tax – are forecast to fall shy of earlier expectations.

What follows is an overview of the key initiatives contained in the Budget. Please contact us for further information on any item.

Tax breaks for small business

While the government has shelved lowering the company tax rate to 29% for business, it will now allow companies to carry back tax losses (of up to \$1 million), potentially affording them a refund against tax paid in previous years. This provides a tax benefit of up to \$300,000 per year.

The mechanics of how the refund is to work have not been set out.

From 1 July 2012, there will also be an increase to the instant asset write off threshold to \$6,500.

Tax deductions for bad debts

Note that companies will not be able to obtain a tax deduction for bad debts written off where the debtor is a related party not in the same tax consolidated group. This could affect group financing activities outside of tax consolidated groups, such as within non-wholly owned groups, stapled groups and involving non-resident debtors.



ALERT

Scrap for scrip roll-over provisions

The government also intends to amend the integrity provisions contained in the scrip for scrip roll-over provisions to remove significant tax minimisation opportunities, including addressing the weakness highlighted in the recent decision of *FCT v AXA Asia Pacific Holdings Ltd* [2010] FCAFC 134. One of the aims of these changes is to ensure that the integrity provisions apply appropriately to trusts.

Company tax cut

The Budget scrapped a promised cut to the company tax which was to be fuelled by the mining tax. The government blames the opposition and Greens for blocking the cut. Dispensing with the company tax cut will save \$4.8 billion over four years.

Superannuation

Despite speculation, only a small number of superannuation changes have been announced in the Budget. Nevertheless the proposed changes continue to increase the uncertainty about the stability of the taxation of superannuation.

The government has confirmed there will be an additional 15% tax imposed on concessional contributions made for high-income earners (meaning a person could be taxed up to an additional \$3,750 on their concessional super contribution). From 1 July 2012, an individual will be a 'high-income earner' if their adjusted taxable income is more than \$300,000. The government has specifically indicated that 'concessional contributions' for these purposes includes all employer contributions, deductible personal contributions and notional employer contributions for defined benefits fund members.

The above announcement is effectively a re-commencement of the superannuation surcharge regime that previously applied to certain individuals between 1 July 1996 and 30 June 2005.

'Spreading the benefits of the boom'

Commencing 1 July 2013, \$1.8 billion will be injected to increase Family Tax Benefit Part A for all eligible families.

In addition, \$1.1 billion has been earmarked for a new Supplementary Allowance for those on income support including the unemployed, students and parents with young children, with the first payment commencing March 2013.

An extra \$2.1 billion will be invested over five years on a new Schoolkids Bonus, paid directly to eligible recipients. Parents with school children will receive up to \$820 extra a year for high school students, or \$410 for primary pupils, under changes to the education tax refund.

Further, from 1 July 2012 up to 1 million Australians will be freed from the need to lodge a tax return, when the tax free threshold will be more than tripled from \$6,000 to \$18,200. Australians earning less than \$80,000 a year will also receive a modest tax cut. This is part of the government's compensation for the introduction of the carbon tax scheme.

Dependant tax offsets streamlined

The government intends to streamline eight dependant tax offsets into one consolidated non-refundable tax offset from 1 July 2012. The new consolidated offset will be based on the highest rate of the offsets to be replaced, and will only be available to taxpayers maintaining a dependant who is genuinely unable to work due to carer obligation or disability. The existing tax offsets to be consolidated are the:

- invalid spouse offset
- carer spouse offset
- housekeeper with or without a child offset
- child-housekeeper with or without a child offset
- invalid relative offset
- parent or parent-in-law tax offset.



ALERT

Taxpayers who are currently eligible to claim more than one offset amount in respect of multiple dependants who are genuinely unable to work will still be able to do so.

Mature-age worker tax measures

From 1 July 2012, the mature-age worker tax offset will be phased out for taxpayers born on or after 1 July 1957.

Infrastructure

The government has announced that \$3.6 billion will be used to duplicate the Pacific Highway by 2016, conditional on agreement with the NSW Government, and \$350 million per year is earmarked for the Roads to Recovery program. In addition, \$232 million will go towards the Torrens and Goodwood rail project in Adelaide.

National Disability Insurance Scheme

The Budget kickstarts the government's National Disability Insurance Scheme, with \$1 billion committed to the program over the next four years, including \$84 million committed for this year.

From July 2013, 10,000 participants will start being assessed, increasing to 20,000 participants from mid 2014.

Health services

The government is committing \$515.3 million to improve dental services and strengthen the future dental workforce. Additional health initiatives include committing to 76 major new regional

health infrastructure projects across Australia, worth \$475 million. The government's aims include reducing public dental waiting lists and enticing dentists to regional, rural and remote areas.

Aged care

A \$3.7 billion package has been adopted with the aim of developing and refining the national aged care system. The package includes increasing the number of Home Care packages by nearly 40,000, to nearly 100,000, over the next five years.

Productivity

The Budget includes the \$1.75 billion National Partnership Agreement on Skills Reform, as agreed with COAG in April this year.

An additional \$225.1 million will be invested in Jobs, Education and Training Child Care Fee Assistance, and \$101 million worth of new skills measures are envisaged to improve quality and better support mature age workers.

Additional funding for the ATO

The ATO will be provided with additional funding to improve the management of outstanding taxation debts and to continue its fight against tax evasion, avoidance and crime. A total of \$76.8 million will be provided over three years to allow the Project Wickenby taskforce to complete its existing project work, while \$106 million will be provided over four years for targeted compliance activity that will focus on the management

of outstanding taxation debts and super guarantee charges and the collection of such debts.

MIT withholding tax rate increase

From 1 July 2012, the final withholding tax rate for managed investment trusts will increase from 7.5 per cent to 15 per cent.

Living away from home allowances – further reforms

The government has announced further living away from home allowance (**LAFHA**) reforms by restricting the LAFHA status of an employee to 12 months for a particular location. Also announced were transitional rules for one of the previously announced reforms restricting access to the LAFHA tax concessions.

Removal of CGT discount for non-residents

From 8 May 2012, the 50 per cent capital gains discount will no longer be available for non-residents on gains accrued after this time.

Comment

Families and Australia's ageing population are at the centre of this Budget. Some of the revenue destined for the company tax cut will instead flow to families, with a \$1.8 billion tax break package for families at its core.



ALERT

The wisdom of the government's push into surplus is not yet clear – in part because the Reserve Bank is already cutting interest rates (putting money into the economy) at a time when achieving a surplus requires the government to take even more money out of the economy.

There is an argument that, in its drive to push the Budget into surplus, the government has missed the opportunity to deliver a budget containing meaningful tax reform. The focus has instead been on increasing taxes for those who should be able to afford it, for the purpose of benefitting those in need. The government has also abandoned measures that were previously announced – but counted the tax savings all the same. Whether or not the projected surplus can be achieved remains to be seen.

Want to republish any of this article?

If you would like to republish any part of this article in your staff newsletter or elsewhere please contact our Marketing team on **+61 3 9608 2168**

Disclaimer

This Alert is intended to provide general information on legal issues and should not be relied upon as a substitute for specific legal or other professional advice.



For further information please contact:

Michael Kohn, Partner
Phone (direct) **+61 3 9608 2160**
Mobile **+61 408 327 805**
Email m.kohn@cornwalls.com.au