Federal Budget 2018: The devil is in the detail!

9 May 2018

Scott Morrison, the Federal Treasurer, handed down his third Budget on 8 May 2018. As always, the devil will be in the detail and all proposals are subject to federal parliament passing the measures.

Significant political debate has been taking place over the last 12 months regarding company tax cuts. On this basis, you could expect further debate on a number of measures announced in this year's Budget, including proposed cuts to individual tax rates, before they become law.

In terms of numbers, the Budget is forecast to have a projected surplus of $11b in 2020/21. As the Budget states: **"Momentum in the Australian economy strengthened in the second half of 2017, with solid contributions from household consumption and non mining business investment. The transition towards more broad based sources of growth is occurring as expected, with the economy forecast to grow by a solid 2¾ per cent in 2017/18. Growth is then forecast to pick up to 3 per cent in 2018/19 and 2019/20 — a pace sufficient to lower the unemployment rate over the next few years."**

The full Budget papers are available at www.budget.gov.au and the Treasury ministers' media releases are available at ministers.treasury.gov.au. However, if you are interested in a brief summary of the proposed changes to Australian business, superannuation, international business and individuals ... read on!

Australian business

Australian businesses will be particularly interested in the following proposals:

- As expected, the $20,000 instant asset write-off will be extended for small businesses by another year to 30 June 2019. This means that businesses with an aggregated turnover of less than $10m will continue to have access to the $20,000 instant asset write-off for another 12 months. A small business will get an immediate deduction for assets costing less than $20,000, and installed and ready for use before 30 June 2019.
- One of the main tax integrity measures business has navigated for many years is Division 7A of the Tax Act. Broadly, this area of the Tax law is designed to discourage companies from disguising a distribution of corporate profits in the form of a loan to a shareholder. Amendments will be made to Division 7A that will strengthen the unpaid present entitlements (UPE) rules from 1 July 2019. Also, the start date of further targeted amendments to Division 7A will be deferred from 1 July 2018 to 1 July 2019.
- Deductions for expenses associated with holding vacant land not genuinely used to earn assessable income will be denied. This is an integrity measure to address concerns that deductions are being improperly claimed for expenses, such as interest costs related to holding vacant land where the land is not genuinely held for the purpose of earning assessable income.
- Small business capital gains tax (CGT) concessions assist owners of small businesses by providing relief from CGT on the disposal of assets related to their business. As an integrity measure, small business CGT concessions will not apply to partners alienating rights to future partnership income. The measure applies from 7:30pm (AEST) on 8 May 2018.
- Payments to employees and contractors are no longer deductible where any amounts that are required to be withheld are not paid, from 1 July 2019.
- Concessional tax rates for the income of minors from testamentary trusts will not be available for trust assets unrelated to the deceased estate.
- The taxable payments reporting system for payments to contractors will be expanded to include security services, road freight transport and computer system design industries, effective from 1 July 2019.
- Businesses can no longer receive cash payments above $10,000 for goods and services, from 1 July 2019. The methodology of this proposal requires further clarity.
- Changes to the calculation of the R&D tax incentive will commence for income years beginning on or after 1 July 2018. Additionally, a maximum cash refund will also apply for some entities.
- A specific anti-avoidance rule applying to closely held trusts engaging in circular trust distributions will be extended to family trusts.
- The alcohol excise refund scheme will be increased from $30,000 per financial year to $100,000 commencing 1 July 2019. The refund will increase for

domestic brewers, distillers and producers of draught beer and other fermented beverages such as cider.

- Domestic brewers of beer will also receive additional relief in the form of a lower excise rate for smaller kegs.
- Business seeking to tender for Australian government contracts above $4m (including GST) will need to provide a statement of compliance with their tax obligations, from 1 July 2019.
- Offshore sellers of hotel accommodation in Australia will be required to calculate their GST turnover in the same way as local sellers from 1 July 2019.
- The government is committed to previously announced company tax cuts.

Superannuation

- The maximum number of allowable members in self-managed superannuation funds (SMSFs) and small APRA funds will be increased to six from 1 July 2019.
- The annual audit requirement for SMSFs will be changed to a three yearly requirement for funds with a history of good record keeping and compliance. This measure will commence on 1 July 2019.
- An exemption from the work test for voluntary contributions to superannuation will be introduced from 1 July 2019 for people aged 65 to 74 with superannuation balances below $300,000, in the first year that they do not meet the work test requirements.
- Insurance arrangements for certain superannuation members will be changed from being a default framework to being offered on an opt-in basis.
- A 3 per cent annual cap will be introduced on passive fees charged by superannuation funds on accounts with balances below $6,000, and exit fees on all superannuation accounts will be banned.
- Individuals whose income exceeds $263,157, and have multiple employers, will be able to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG) from 1 July 2018.

International business

The definition of a “significant global entity” (SGE) will be broadened to include more large multinational groups, from 1 July 2018. The SGE definition identifies entities which are required to prepare country-by-country (CbC) reports, and is used to determine entities which may be subject to Australia’s multinational tax integrity rules, such as the multinational anti-avoidance law (MAAL) and the diverted profits tax (DPT).

- The thin capitalisation rules will be amended, effective 1 July 2019, requiring entities to align the value of their assets for thin capitalisation purposes with the value included in their financial statements.
- The thin capitalisation rules will be amended, effective 1 July 2019, to treat certain consolidated groups and multiple entry consolidated groups as both outward and inward investment vehicles for thin capitalisation purposes.

Individuals

- The 2017/18 Federal Budget measure to increase the Medicare levy from 2 per cent to 2.5 per cent of taxable income from 1 July 2019 will not proceed.
- A seven year Personal Income Tax (PIT) Plan will be implemented in three steps, to introduce a low and middle income tax offset, to provide relief from bracket creep and to remove the 37 per cent PIT bracket. This measure builds on the 2016/17 Budget measure that extended the 32.5 per cent PIT bracket from $80,000 to $87,000 from 1 July 2016. The full details of this measure are available in the above mentioned Budget papers. It should be noted that this measure is a long term plan and will be subject to much political debate in the years ahead.
- We note that the Australian Taxation Office (ATO) will be provided with $130.8m from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents.
- From 1 July 2019, all remuneration (including payments and non-cash benefits) provided for the commercial exploitation of a person’s fame or image will be included in the assessable income of that individual. This integrity measure will ensure that high profile individuals are no longer able to take advantage of lower tax rates by licensing their fame or image to another entity.

Of course, if you would like to discuss the analysis in further detail, please don’t hesitate to contact your Fordham Partner.

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