SOUTH EAST ACCESS
Accountants and Business Advisers

CPA

Federal Budget 2012-13 What It Means to You

As predicted by almost every significant media outlet during the past week, the treasurer has announced a federal budget surplus of $1.5 bn for the 2012-13 year. A budget surplus is viewed by many in the community, perhaps a majority, as a good thing and therefore it is curious that the budget, at first glance, has a "flat" feel to it. Could this be because the budget both gives and takes away with equal gusto?

Families will inevitably benefit from the "schoolkids" bonus of either $820 or $410 (although this is arguably merely a boost for those most vulnerable to the carbon tax) but the gain is at the expense of the education tax refund which will be removed. Further, the Family Tax Benefit Part A will increase by $300 for families with one eligible child and $600 for two or more children however the benefit will be limited to children under 18 years of age.

Business taxpayers are confronted with a similar scenario. The loss carry back initiative will assist some companies with their cash flows however this is offset by a scrapping of the announced reduction in the company tax rate to 29% and significant limitations will be placed on access to LAFHA benefits which will increase the cost of the temporary relocation of employees.

There are budget announcements which will be of great concern to Australians who seek to maximise their savings both now and in the longer term, in particular:

- the scrapping of the 50% discount in respect of assessable interest income which was to commence from 1 July 2013, and
- the deferral until 1 July 2014 of the higher concessional contribution cap of $50,000 for persons over 50 years of age with superannuation account balances below $500,000.

High net worth individuals will no doubt have been expecting the increase in tax on concessional superannuation contributions but would have been less prepared for the limitations placed on availability of the employment termination payment offset and the means testing of the net medical expense tax offset.

The key measures announced in the federal budget which both "give" and "take away" are summarised below.

Individuals and Family Tax Measures

Individuals

Personal income Tax rates - residents (2012-13 year)

These tax rates were announced when the carbon tax legislation was enacted and were confirmed in the Budget:

- Taxable income up to $18,200 - 0% Rate
- Taxable income from $18,201 to $37,000 - 19% Rate
- Taxable income from $37,001 to $80,000 - 32.5% Rate
- Taxable income from $80,001 to $180,000 - 37% Rate
- Taxable income over $180,000 - 45% Rate

Personal income Tax rates - non residents

From 1 July 2012, the first two marginal tax rate thresholds will be merged into a single threshold. The marginal rate for this threshold will align with the second marginal tax rate for residents (32.5 per cent) and will apply to all taxable income below $80,000. From 1 July 2015, the same marginal rate will again rise from 32.5 per cent to 33 per cent.

Employment Termination Payment Tax Offset

From 1 July 2012, only that part of an ETP, which takes a person's total annual taxable income (including the ETP) to no more than $180,000 will receive the ETP tax offset.

Amounts above this whole-of-income cap will be taxed at marginal rates. The whole-of-income cap will complement the existing ETP cap ($175,000 in 2012-13, indexed). The ETP tax offset ensures that ETPs up to the ETP cap are taxed at a maximum tax rate of 15 per cent for those over preservation age and 30 per cent for those under preservation age.

Existing arrangements will be retained for certain ETPs relating to genuine redundancy (including to those aged 65 and over), invalidity, compensation due to an employment-related dispute and death.

Net medical expenses tax offset

From 1 July 2012, people with adjusted taxable income above the Medicare levy surcharge thresholds ($84,000 for singles and $168,000 for couples or families in 2012-13), will face an increased threshold before being able to claim this offset (the threshold for the 2012 income year was $2,000). The offset threshold is to be

increased to $5,000 (indexed annually thereafter) and the rate of reimbursement will be reduced to 10% for eligible out of pocket expenses incurred. People with income below the surcharge thresholds will be unaffected by this measure.

Consolidate the dependency offsets into one

The following offsets are to be consolidated; the invalid spouse, carer spouse, housekeeper, housekeeper (with child), child-housekeeper, child-housekeeper (with child), invalid relative and parent/parent-in-law tax offsets.

The new consolidated offset will be based on the highest rate of the existing offsets it replaces, resulting in an increased entitlement for many of those eligible for this measure.

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 Offset phase-out

The Government will phase out the mature age worker tax offset (MAWTO) from 1 July 2012 for taxpayers born on or after 1 July 1957. Access to the MAWTO will be maintained for taxpayers who are aged 55 years or older in 2011-12.

Medicare levy low income thresholds

The Government will increase the Medicare levy low income thresholds to $19,404 for individuals and $32,743 for families for the 2011-12 income year, with effect from 1 July 2011. The additional amount of threshold for each dependent child or student will also increase to $3,007.

The Medicare levy threshold for single pensioners below Age Pension age will also increase to $30,451 for the 2011-12 income year, with effect from 1 July 2011. This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy when they do not have an income tax liability.

Australian Business Register

Improvements to the Australian Business Register include:

- expanding the ABR data fields to include geocoded addresses, details of branches and comprehensive associates data
- enhancing the capacity to make determinations of whom is entitled to be granted and hold an Australian Business Number (ABN), and
- Developing additional tools to support compliance activities, policy development, infrastructure and service delivery planning by the Commonwealth, State and local authorities.

Measures from previous budgets that have been discontinued

The Government will not proceed with the 2010-11 Budget measure of a 50 per cent discount for assessable interest income which was due to commence on 1 July 2013.

The Government will not proceed with the 2010-11 Budget measure to introduce a standard deduction for work related expenses which was due to commence on 1 July 2013.

Minor amendments

There will be an extension to the exemptions for the temporary flood and cyclone reconstruction levy (the temporary flood levy) to include individuals who were eligible for an Australian Government Disaster Recovery Payment (AGDRP) in 2010-11 even if they did not apply for and receive the payment, as required under the existing exemptions.

The list of deductible gift recipients has been updated to include One Laptop Per Child Australia, from 1 July 2012 to 30 June 2016.

The marginal tax rate for non-resident individuals participating in the Seasonal Labour Mobility Program (the Program) to 15 per cent, administered as a final withholding tax, with effect from 1 July 2012. This measure replaces the arrangements for the Pacific Seasonal Worker Pilot Scheme, which concludes on 30 June 2012.

Families

Parenting Payment (PP) - changed eligibility for 1 July 2006 grandfathered recipients

From 1 January 2013, all PP recipients who were on payment prior to 1 July 2006 will be assessed under the same eligibility requirements as new PP recipients. Under this measure grandfathered recipients with their youngest child aged six years or over (for partnered recipients) or eight years or over (for single recipients) will cease to be eligible for PP and will transition onto Newstart Allowance (NSA) unless they move into employment.

Parents who transition onto NSA will be eligible for the more generous income test taper that will take effect from 1 January 2013. The new more generous income test reduces NSA payments by 40 cents (rather than the previous 50 cents) for every dollar of income earned above the income-free area (currently $62 per fortnight).

New income support supplement

The supplement will be an ongoing, non-taxable payment to recipients of Newstart Allowance, Sickness Allowance, Youth Allowance, Austudy, ABSTUDY, Special Benefit, Parenting Payment Single, Parenting Payment Partnered, Transitional Farm Family Payment and the Exceptional Circumstances Relief Payment. The new

supplement will provide $210 per annum for eligible singles and $175 per annum for each member of an eligible couple.

The supplement will be paid in two instalments, in March and September each year, with the first payment commencing on 20 March 2013.

Australian Working Life Residency

The Age Pension recipients who are overseas for more than 26 weeks will be paid their maximum entitlement of pension only if their Australian Working Life Residence (AWLR) is 35 years or more, rather than 25 years as applies under current arrangements. Pension recipients with less than 35 years AWLR will be paid a proportional rate. Pensioners overseas on the date of implementation will not be affected by this change unless they return to Australia for at least 26 weeks. In addition, all partnered pensioners residing overseas will be paid based on their own AWLR rather than their partner's AWLR. Grandfathering provisions will protect existing customers who are currently being paid under an international agreement.

The maximum payment rate will increase by $300 per annum for families with one child and $600 per annum for two or more children from 1 July 2013.

Family Tax Benefit Part A - change to age of eligibility/increased payments

From 1 January 2013, the Government will limit eligibility for Family Tax Benefit (FTB) Part A to young people under 18 years of age or, where a young person remains in secondary school, the end of the calendar year in which they turn 19. Individuals who no longer qualify for FTB Part A may be eligible to receive Youth Allowance subject to usual eligibility requirements. The maximum payment rate will increase by $300 per annum for families with one child and $600 per annum for two or more children from 1 July 2013.

Portability of Australian Government Payments

From 1 January 2013, the period of time that people who travel overseas will continue to be paid will be reduced from 13 to 6 weeks for most income support and family payment recipients. Beneficiaries who are outside Australia on the date of implementation will retain the 13 week portability of their payments until they return to Australia. The Age Pension will be excluded as it can be paid overseas indefinitely, once certain criteria are met. Some payments such as Parenting Payment and Family Tax Benefit also have a requirement which means that the portability period is not reset until the person has returned to Australia for a period of 13 weeks. This return period will also be reduced to 6 weeks.

This measure affects the following payments and benefits: Disability Support Pension, Parenting Payment, Carer Payment, Carer Allowance, Widow B Pension, Wife pension, Widow Allowance, Partner Allowance, Youth Allowance (student), Austudy, Mobility Allowance, Telephone Allowance, Pension Supplement, Utilities Allowance, Seniors Supplement, Clean Energy Supplement, Low Income Supplement, Concession Cards, Family Assistance, and Paid Parental Leave. Family

Tax Benefit Part A payments above the base rate will be reduced to the base rate after 6 weeks of a temporary absence from Australia.

Replacing the Education Tax Refund with a Schoolkids Bonus

From January 2013, every family with a child at school will be paid $410 per annum for each primary school student and $820 per annum for each secondary school student. All eligible families will receive the full rate of payment and will no longer need to keep receipts as proof of expense, or wait until lodging their income tax return to obtain the benefit.

Eligibility for the payment will remain open to families with children enrolled and attending school who are in receipt of Family Tax Benefit Part A (FTB A) or other qualifying income support payments or allowances under a prescribed educational scheme that precludes the family from receiving FTB A. This measure will replace the Education Tax Refund.

Key Business Measures

Company tax loss carry-back scheme

The Government will allow companies (and entities taxed like companies) to carry-back tax losses to offset previous profits so as to provide a refund of tax previously paid.

A one year loss carry-back will apply in 2012-13, where tax losses incurred in that year can be carried back and offset against tax paid in 2011-12.

For 2013-14 and later income years, tax losses can be carried back and offset against tax paid up to two years earlier.

Losses of up to $1 million can be carried back for each year, providing a cash benefit of up to $300,000.

The measure will apply to revenue losses only, will be subject to integrity rules and will be limited to a company's franking account balance.

Immediate write off for Small Business Entities

From 1 July 2012, small business entities (with a turnover of less than $2 million) will be able to:

- instantly write-off the first $5,000 of a new or used motor vehicle
- immediately write off each eligible business asset they buy costing less than $6,500 per asset

This confirms initiatives previously announced by the Government.

Bad debts - Related Party Financing Arrangements

This measure will deny a tax deduction for a bad debt written off, where the debtor is a related party who is not in the same tax consolidated group. The corresponding gain to the debtor will also not be taxed.

The measure will apply from 7.30pm (AEST) 8 May 2012.

Other Measures - Support for Small Business

The Government will also:

- extend its Small Business Advisory Service program with $27.5 million over four years
- establish a Small Business Commissioner to represent and advocate for small business interests, and
- extend the Small Business Support Line to 2015-16.

Reduction in Company Tax Rate

The proposed measure to lower the company tax rate from 2013/14 will not proceed. The Government will also not implement the proposed early start to the company tax rate cut for small business entities from the 2012-13 income year.

Superannuation

Reduction of superannuation tax concessions for high income taxpayers

From 1 July 2012 the contributions tax paid on concessional contributions for individuals with income greater than a threshold figure of $300,000 will increase from the current 15% rate to the higher rate of 30%.

The definition of ‘income' under this measure is expected to include taxable income, concessional superannuation contributions, adjusted fringe benefits, total net investment loss, target foreign income, tax-free government pensions and benefits, less child support.

Concessional contributions include all employer contributions (both superannuation guarantee and salary sacrifice contributions) and personal contributions for which a deduction has been claimed; for members of defined benefit funds (both funded and unfunded schemes), concessional contributions include all of their notional employer contributions.

For incomes near the threshold of $300,000, where the taxpayer's income excluding their concessional contributions is less than the threshold, but the inclusion of their concessional contributions exceeds the threshold, the reduced tax concession (or higher contributions tax) will only apply to the part of the contributions that are in excess of the threshold.

Treasury will consult with the superannuation industry and other relevant stakeholders on further design and implementation details.

Note 1: Reduced tax concessions or a higher contributions tax will not apply for the contributions that exceed the cap. These will be taxed (as currently) under the excess contributions tax regime. Excess concessional in these circumstances will not be taxed at a rate higher than the top marginal tax rate plus Medicare levy.

Note 2: The measure will only relate to concessional contributions by very high income taxpayers to super. The 15% concessional tax rate on earnings and tax exemption applicable to assets supporting pension payments will be unaffected by this measure.

According to the Government, the measure will affect around 128,000 people in 2012-13.

Deferral of higher concessional contributions cap

The higher concessional cap of $50,000 for those 50 and over as proposed in the 2010-11 Budget for implementation from 1 July 2012 will be deferred by two years to commence from 1 July 2014.

During these two years the general cap of $25,000 is to apply to all taxpayers.

The government expects that in 2014-15 the general cap is likely to increase through indexation to $30,000, and that the higher cap would then commence at $55,000.

In addition this two year deferral will align the start date with improved superannuation fund reporting and systems under the SuperStream reforms and therefore allay industry concerns about the difficulty and cost in determining individual eligibility for the higher cap. The ATO online reporting facility will also provide access to comprehensive account balance information from early 2014.

Temporary SuperStream levy

The temporary SuperStream levy will be paid by APRA regulated superannuation funds to fund the costs to Government of implementing the SuperStream reforms. The reforms will provide benefits to fund members in respect of access to all aspects of their super and to employers and funds from modern standardised procedures while also assisting the Tax Office administration.

The additional SuperStream levy will be $121.5 million in 2012-13, $111.1 million in 2013-14, $83.1 million in 2014-15, $69.3 million in 2015-16, $41.2 million in 2016-17 and $40.9 million in 2017-18.

SMSF auditor registration

An online registration system is proposed for auditors and will include a competency examination. This implements a recommendation of the Cooper Review.

Capital Gains Tax

CGT - deceased estates

The Government has announced a number of measures in respect of CGT in relation to deceased estates and will also make minor amendments to the measures contained in the 2011-12 Budget to ensure the proper function of the CGT provisions.

These changes:

- reduce compliance costs involved with the integrity provisions by ensuring that the deceased's tax return does not need to be amended as the taxing point will be recognised by the entity transferring the asset
- modify the application dates for two minor changes announced in the 2011-12 Budget, and
- broaden the scope of the integrity provisions to also apply to assets passing via survivorship.

The proposed amendments are intended to take effect from the date of Royal Assent.

Scrip for scrip roll-over

The Government announced it will amend the integrity provisions of the CGT scrip for scrip roll-over to remove significant tax minimisation opportunities.

The scrip for scrip roll-over provides CGT relief for:

- shareholders when they exchange their shares in a company takeover, and
- unitholders of trusts involved in takeovers.

The proposed measure will ensure that taxpayers cannot get around the roll-over's integrity provisions by holding interests to acquire ownership rights, such as convertible preference shares, rather than the underlying shares; and defer indefinitely the CGT liability that would have otherwise arisen under the integrity provisions for the on-sale of the target entity by the acquiring entity.

The Government also intends for the measure to strengthen the integrity provisions by:

- broadening the scope of the rules that apply to intra-group debt to cover debts owed to group entities other than the head entity
- removing the CGT exemption for the repayment of such debts, and
- ensuring that the integrity provisions apply appropriately to trusts.

The proposals are intended to have effect from 7.30pm (AEST) on 8 May 2012.

CGT and loss relief to facilitate superannuation reforms

The Government announced its intention to amend the law to ensure that income tax considerations do not prevent mergers of superannuation funds or transfers of existing default members' balances and relevant assets in the transition to *Stronger Super* and *MySuper*.

- From 1 June 2012 to 1 July 2017, optional loss relief will be available for mergers of complying superannuation funds on the same terms and conditions as the former temporary loss relief that applied from 24 December 2008 to 30 September 2011. There will be some exceptions, including an optional roll-over for capital gains and integrity measures.
- From 1 July 2013 to 1 July 2017, an options roll-over and loss relief will be made available for capital gains and capital losses on mandatory transfers of default members' balances and relevant assets to a MySuper product in another complying superannuation fund.

CGT - amendments to the revenue asset and trading stock roll-overs for interposing a company

The Government announced that it will broaden the revenue asset and trading stock roll-overs that apply to the exchange of interests in a company or unit trust for shares in another company.

The proposed amendments:

- ensure that the roll-overs will be available for all interests that qualify for the general conditions of each of the roll-overs, rather than only shares in consolidated groups, and
- will improve integrity by requiring that the replacement shares in the interposed company must maintain the character of the original revenue asset or trading stock asset that was exchanged.

The Government intends the changes to apply from 7.30pm (AEST) on 8 May 2012.

CGT - amendments to beneficial interests

The changes announced are intended to provide greater consistency in the application of the scrip for scrip roll-over and small business CGT concessions to trusts, superannuation funds and life insurance companies.

In particular, this measure will ensure that the provisions concerning:

- absolutely entitled beneficiaries
- bankrupt individuals
- security providers, and
- companies in liquidation

interact appropriately with the CGT provisions and with the connected entity test in the small business entity provisions.

The proposed changes will apply automatically from the date of Royal Assent and at the option of taxpayers from the 2008-09 income year.

CGT - other proposed reforms

The Federal Budget announcement also contains the following proposed amendments in relation to CGT:

- resolution of minor policy issues relating to previously announced measures to provide CGT relief for taxpayers affected by natural disasters, with effect from 1 July 2011. The changes include ensuring that taxpayers that are eligible for an automatic CGT exemption (such as the main resident exemption) are not prevented from choosing the same CGT relief treatment available to other taxpayers, and
- minor extensions will be made to the CGT exemptions for certain compensation payments and insurance policies, with effect from the 2005-06 year. The proposals ensure the following:
    - CGT consequences will be disregarded where a taxpayer receives compensation, damages or certain insurance proceeds indirectly through a trust, ensuring the same CGT outcome as for a taxpayer who receives such proceeds directly, and
    - Insurance proceeds owned by superannuation funds that were treated as CGT exempt prior to the 2011-12 Budget changes continue to be CGT exempt.

Fringe Benefits Tax

Further Reform of Living-Away-from-Home Benefits

The Government will further reform the tax concession for living-away-from-home allowances by:

- limiting access to the tax concession to employees who maintain a home for their own use in Australia, that they are living away from for work; and
- providing the tax concession for a maximum period of 12 months in respect of an individual employee for any particular work location.

This measure will not affect:

- the tax concession for ‘fly-in fly-out' arrangements, as these employees will not be subject to the 12 month time limit; or
- the tax treatment of travel and meal allowances, which are provided to employees who have to travel away from their usual place of work for short periods (generally up to 21 days).

The measure will apply from 1 July 2012 for arrangements entered into after 7.30pm (AEST) on 8 May 2012, and from 1 July 2014 for arrangements entered into prior to that time.

Reform of Airline Transport Fringe Benefits

The Government will update the method for determining the taxable value of airline transport fringe benefits from stand-by value to market value. The taxable value of airline transport fringe benefits is currently the stand-by value of the benefit less the employee contribution. This method was developed when stand-by travel was a feature of commercial airline pricing and staff could be displaced from a flight up to the time of boarding. The concept of stand-by travel, however, is no longer commercially relevant as airlines now use discounted pricing to optimise passenger levels.

This measure will apply to benefits provided after 7.30pm (AEST) on 8 May 2012.

Goods and Services Tax

Compliance program - Two Year Extension

The Government will provide $195.3 million to the Tax Office in 2014-15 and 2015-16 to continue a range of activities that promote voluntary GST compliance and provide a level playing field for Australian businesses. According to the Government, the measure will ensure that issues relating to fraudulent GST refunds, systematic under-reporting of GST liabilities, failure to lodge GST returns and outstanding GST debts continue to be closely examined by the Tax Office.

Limiting the ability of the Commissioner of Taxation to backdate GST registrations

With effect from 1 July 2012, as part of the introduction of self-assessment for indirect taxes, the Government has amended the GST law to limit the Commissioner of Taxation's ability to backdate a taxpayer's GST registration to four years. The four year period is consistent with other time periods in the GST administration regime.

International Tax

Removal of the CGT discount for non-residents

The Government announced that it will remove the general 50% CGT discount for non-residents on capital gains accrued after 7.30pm (AEST) on 8 May 2012.

Currently, the discount is available to all individual and trustee taxpayers irrespective of residency.

The discount will remain available for capital gains accrued prior to this time where the non-resident taxpayer chooses to obtain a market valuation of assets held as at 8 May 2012.

Managed investment trust withholding tax regime

Non-residents are subject to withholding tax (WHT) on certain distributions received from Australian managed investment trusts (MITs).

A reduced WHT rate (currently 7.5%) is available to residents of countries with which Australia has effective exchange of information arrangements and which are listed in the *Taxation Administration Regulations 1976* (the Regulations).

The Government further announced that it has updated the list of countries in the Regulations, which now includes Anguilla, Aruba, Belgium, Malaysia, and the Turks and Caicos Islands. Residents of these countries are eligible for the reduced WHT rate with effect from 1 January 2012.

In the Budget, the Government also announced that it will increase the concessional WHT rate from 7.5% to 15%, with effect from 1 July 2012.

Investment manager regime prospective arrangements

In December 2010, the Government announced certain amendments to the income tax laws in relation to the investment manager regime (IMR). Under the proposals, the Commissioner of Taxation would generally not be permitted to raise an assessment in respect of the relevant income, gains or losses of a 'foreign managed fund' (or a trustee or investor of the fund) that has not lodged an Australian tax return for the 2009-10 or prior income years in respect of that income, gains or losses.

Investments covered by the proposals as announced in December 2010 included:

- portfolio interests in companies, and
- portfolio interests in other entities (including units in a unit trust)

except to the extent the amount gives rise to a withholding tax liability.

In the Budget, the Government confirmed that it will extend these tax exemption measures to:

- gains from the disposal of certain non-Australian assets, and
- certain non-portfolio conduit income.

This 2012-13 Budget measure was originally announced by the Minister for Financial Services and Superannuation, Mr Bill Shorten, on 16 December 2011. The measure is intended to have retrospective effect from 1 July 2011.

Bilateral agreements

The Budget also includes the following announcements:

- that the Government signed a protocol to update the Australia-India double tax treaty on 16 December 2011. The protocol will enter into force once both

Australia and India advise that they have completed their domestic requirements. The protocol will:
    - update the rules for the taxation of business profits
    - enhance the framework for administrative cooperation in the exchange of information between the countries' tax authorities
    - allow tax authorities of each country to assist in the collection of tax debts owed to the other country, and
    - provide new rules to prevent tax discrimination, and
- that the Government signed a tax information exchange agreement (TIEA) with Bahrain on 15 December 2011. The TIEA will enter into force once both countries have completed their domestic requirements. The TIEA allows for the full exchange of information in relation to Australia's federal taxes and Bahrain's taxes between the two countries.

Not-for-profit Sector Measures

Better targeting of not-for-profit tax concessions

In its 2011-12 Federal Budget, the Government announced that it will reform the tax concessions available to not-for-profit (NFP) entities to ensure they are targeted only at those activities that directly further a NFP's altruistic purposes. The Government originally intended the new provisions to commence on 1 July 2011.

In the 2012-13 Federal Budget, the Government announced that it will extend the start date to 1 July 2012. The extension of the start date will:

- provide additional consultation time, and
- reduce the uncertainty for those in the NFP sector who have commenced commercial activities since the 2011-12 Federal Budget and may be affected by the proposed measures.

The new start date of 1 July 2012 will apply to new unrelated commercial activities that commenced after 7.30pm (AEST) on 10 May 2011.

Existing unrelated commercial activities that commenced prior to that time are covered by the transitional arrangements announced in the 2011-12 Federal Budget.

More information?

For more information on what any of these changes may mean to you, your family or your busieness, please call David Stephens on 02 4454 4444.