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The 2016-17 Federal Budget

The 2016-17 Federal Budget was handed down on 3 May 2016.

The intention of this Budget is to set out an economic plan to ensure Australia successfully transitions from the mining boom to a stronger, more diversified economy. The economic plan, which involves changes to superannuation, a Ten Year Enterprise Tax Plan and further tax integrity measures affecting multinational corporations, is to provide a foundation to build a 'brighter, more secure future, in a stronger, new economy with more jobs[1]'.

The main measures likely to affect you are outlined below, together with information about other measures that may be of interest to you. To ensure you know precisely how you may be affected by one or more of these measures, you should consult your tax adviser.

Budget measures affecting individuals and families

Changes to individual marginal tax rates

From 1 July 2016, the 37% marginal threshold will apply to the taxable income of individuals from $87,000. To compare, currently, taxable income above $80,000 is subject to the rate of 37%.

Medicare levy and Medicare levy surcharge

With effect from the 2015-16 year, the low-income thresholds for both the Medicare levy and the Medicare levy surcharge will increase per the table below:

Medicare levy income thresholds

	2015-16	2014-15
Singles	$21,335	$20,896
Couples (no children)	$36,001	$35,261
Single seniors and pensioners	$33,738	$33,044
Senior and pensioner couples with no children	$46,966	$46,000

The additional amount of threshold for each dependent child or student will be increased to $3,306 (up from $3,238).

The increase in these thresholds takes into account movements in the Consumer Price Index (CPI) to ensure that generally low income taxpayers will continue to be exempted from paying the Medicare levy.

Medicare levy surcharge

The low-income threshold for the Medicare levy surcharge has been increased from $20,896 to $21,335 for:

- a person who is married (or both married and a beneficiary of a trust); and
- reportable fringe benefits.

Pause in indexation for Medicare levy surcharge and private health insurance rebate

The pause in the indexation of the income thresholds for the Medicare levy surcharge and the private health insurance rebate will continue for a further three years from 1 July 2018.

Income tax relief for Australian Defence Force personnel deployed overseas

Income tax exemptions will be provided for Australian Defence Force personnel deployed on Operation PALATE II in Afghanistan (from 1 January

[1] Treasurer's Budget Speech 2016-17, 3 May 2016

2016 to 31 December 2016). The co-ordinates for Operation OKRA in the Middle East (from 9 September 2015) and Operation MANITOU in international waters (from 14 May 2015) will be updated.

Small business measures

Increase to the small business entity turnover threshold

Building on the small business package of measures introduced in the 2015-16 Federal Budget, from 1 July 2016, the small business entity turnover will be increased from $2 million to $10 million. Qualifying taxpayers will be able to access the following income tax concessions for small businesses:

- simplified depreciation rules, including immediate deductibility for assets costing less than $20,000 (until 30 June 2017);
- simplified trading stock rules (there will be no requirement for an end of year stocktake if the value of trading stock has changed by less than $5,000;
- a simplified method of paying PAYG instalments calculated by the ATO (removing the risk of overestimating or underestimating PAYG instalments and incurring penalties);
- accounting for GST on a cash basis and paying GST instalments as calculated by the ATO;
- other concessions available to small businesses, such as certain fringe benefits tax (FBT) exemptions such as the extension of the exemption for work-related portable electronic devices (starting from 1 April 2017 to align with the FBT year) and
- immediate deductibility of professional expenses.

However, only small businesses with a turnover of less than $2 million or that satisfy the maximum net asset value test will be able to access the existing small business capital gains tax (CGT) concessions.

In addition, from 1 July 2017, all small businesses with a turnover of less than $10 million will be able to access a simpler approach to preparing a Business Activity Statement (BAS) by being able to more easily classify transactions and prepare and lodge a BAS. A trial of the new simplified BAS reporting requirements will start on 1 July 2016.

Unincorporated small businesses

The unincorporated small business tax discount will be increased over 10 years from the current 5% to 16%, first increasing to 8% on 1 July 2016. The current cap of $1,000 per individual for each income year will be retained.

The rate will increase as follows:

Income Year	Rate
2015-16	5%
2016-17	8%
2017-18	8%
2018-19	8%
2019-20	8%
2020-21	8%
2021-22	8%
2022-23	8%
2023-24	8%
2024-25	10%
2025-26	13%
2026-27	16%

Reduction in the company tax rate

The company tax rate will be progressively reduced to 25% over the next 10 years. Correspondingly, the annual aggregated turnover threshold that will allow companies to qualify for the lower rate will rise over the next 10 years.

The changes to the company tax rate and turnover threshold are contained in the table below:

Income Year	Rate	Annual aggregated turnover threshold
2015-16	28.5%	$2 million
2016-17	27.5%	$10 million
2017-18	27.5%	$25 million
2018-19	27.5%	$50 million
2019-20	27.5%	$100 million
2020-21	27.5%	$250 million
2021-22	27.5%	$500 million
2022-23	27.5%	$1 billion
2023-24	27.5%	No limit
2024-25	27%	No limit
2025-26	26%	No limit
2026-27	25%	No limit

The company tax rate remains at 30% for all companies unless they qualify for the reduced rate up until 2023-24 when all companies qualify for the lower rate.

Changes to the rules applying to private companies

Targeted amendments will be made to improve the operation and administration of the integrity rules for closely-held, private groups (in Division 7A of the *Income Tax Assessment Act 1936*). The amendments will apply from 1 July 2018 and will include:

- a self-correction mechanism for inadvertent breaches of Division 7A;
- safe-harbour rules to provide certainty;
- simplified loan arrangements for the purpose of the rules; and

- a number of technical adjustments to the law to improve its operation and provide increased certainty for taxpayers.

National Innovation and Science Agenda measures

As part of the Government's *National Innovation and Science Agenda* announced in December 2015, a number of tax-related measures were also introduced. In the 2016-17 Federal Budget, a couple of these measures have been expanded on.

i) Expanding tax incentives for early stage investors

As part of the Budget announcement:

- the holding period will be reduced from three years to 12 months for investors to access the 10 year CGT tax exemption;
- the definition of eligible start-ups will include a time limit on incorporation and criteria for determining if the start-up is an 'innovation company';
- there will be a requirement that the investor and innovation company are non-affiliates; and
- the investment amount for non-sophisticated investors will be limited to $50,000 or less per income year in order to receive a tax offset.

ii) Expanding the new arrangements for venture capital limited partnerships

As part of the Budget announcement, the funding arrangements to attract more venture capital investment will be expanded to improve access to capital and make the regimes more user-friendly.

Changes to superannuation

Division 293 tax income threshold reduced

If a taxpayer's income exceeds a certain threshold, they are required to pay an additional 15% tax on the concessional contributions they make to superannuation on top of the 15% tax payable on contributions made to superannuation (ie the tax rate applicable is 30%). The current income threshold is $300,000.

As part of the Budget announcement, this income threshold will be reduced to $250,000 from 1 July 2017.

Concessional contributions cap

Currently, the annual concessional contributions cap is $30,000 for those aged under 50 and $35,000 for those aged 50 and over.

As part of the Budget announcement, from 1 July 2017, the annual concessional contributions cap will be reduced to $25,000 for everyone regardless of age.

Transition to retirement

To improve integrity in the superannuation system, from 1 July 2017, the tax exemption on earnings from assets supporting 'Transition to Retirement Income Streams' will be removed. This measure will also remove a rule that allows individuals to treat certain superannuation income streams as lump sums for income tax purposes.

The change will prevent the 'Transition to Retirement Income Streams' from being used as an incentive to minimise tax.

Lifetime non-concessional contributions cap

From Budget night, the Government will introduce a lifetime non-concessional contributions cap of $500,000. The lifetime cap will take into account all non-concessional contributions made on or after 1 July 2007.

This cap will replace the existing annual non-concessional contributions cap of $180,000 (or $540,000 every three years for individuals aged under 65).

The change is intended to improve sustainability in the superannuation system as well as supporting the majority of taxpayers who make non-concessional contributions to superannuation of well below $500,000. It is also intended to provide flexibility to taxpayers to allow them to choose when they may contribute to their superannuation and will be available to taxpayers up to the age of 74.

Removal of restrictions from making contributions to superannuation for people aged between 65 and 74.

The current restrictions on people aged 65 to 74 from making superannuation contributions for their retirement will be removed from 1 July 2017.

Currently, there are minimum work requirements for people aged between 65 to 74 who want to make voluntary contributions to their superannuation. Restrictions apply to the bringing forward of non-concessional contributions and spouses over the age of 70 cannot receive contributions.

Removing these restrictions will allow people aged between 65 and 74 to increase their retirement savings, particularly from sources that may not have been available to them before retirement, including from downsizing their home.

Flexibility in super – individuals able to make personal superannuation contributions

From 1 July 2017, all individuals up to age 75 will be allowed to claim an income tax deduction for personal superannuation contributions. Individuals who are partially self-employed and partially salary and wage earners and individuals whose employers do not offer salary sacrifice arrangements will be able to benefit from this measure.

Currently, an individual is only able to claim an income tax deduction from making personal contributions to their superannuation where less than 10% of their income earned comes from being an employee (this is known as the '10% rule'). Individuals who are wholly self-employed or only has investment income are not affected by the '10% rule'.

Allowing 'catch-up' concessional contributions

From 1 July 2017, individuals will be able to make additional concessional contributions to their superannuation where they have not reached their annual concessional contributions cap in previous years. Taxpayers will be able to roll-over their unused cap amount for up to five years and make a contribution up to the rolled over cap amount if their total superannuation balance is less than $500,000.

The purpose of this measure is to assist taxpayers who have interrupted work patterns (eg have certain periods of time out of the workforce for reasons such as maternity leave, other extended periods of leave) to catch up on their superannuation contributions in later years when they return to work.

Changes to superannuation for low income earners

From 1 July 2017, the Low Income Superannuation Contribution (LISC) will be replaced with a new Low Income Superannuation Tax Offset (LISTO). The LISTO will provide a non-refundable tax offset to superannuation funds based on the tax paid on concessional contributions made on behalf of low income earners up to a cap of $500. A taxpayer will be able to access the LISTO where their adjusted taxable income is less than $37,000 and a concessional contribution has been made on their behalf to a superannuation fund.

To compare, currently the LISC operates such that if you earn less than $37,000 and concessional contributions are made to a super fund for you, the Government will make a contribution to your superannuation fund on your behalf between $10 and $500. This amount is determined based on 15% of the amount of concessional contributions that have been made into a super fund for you.

Spouses and superannuation

The income threshold for the receiving spouse (whether married or de facto) of the low income spouse tax offset will be increased from $10,800 to $37,000 from 1 July 2017.

The measure will help to improve the superannuation balances of low income spouses by extending the current spouse tax offset to assist more families to support each other in accumulating superannuation.

The low income spouse tax offset provides up to $540 per annum for the contributing spouse and builds on the Government's co-contribution and superannuation splitting policies to boost retirement savings.

Transfer balance cap

From 1 July 2017, the Government will introduce a transfer balance cap of $1.6 million on the total amount of accumulated superannuation an individual can transfer into the tax-free retirement phase. Subsequent earnings on these balances will not be restricted. This measure will limit the extent to which tax-free benefits of retirement phase accounts can be used by high-wealth individuals.

Anti-detriment rule

From 1 July 2017, the outdated anti-detriment provision in respect of death benefits from superannuation will be removed. The effect of the anti-detriment rule can result in a refund of a member's lifetime superannuation tax payments into an estate where the beneficiary is a dependant of the member (eg spouse, former spouse or child).

The provision is applied inconsistently to funds. Removing the rule helps to better align the treatment of lump sum death benefits across all superannuation funds and the treatment of bequests outside of superannuation.

There is no change to the treatment of lump sum death benefits made to dependants which remain tax-free.

Changes to GST and other indirect taxes

GST on low value imports

From 1 July 2017, GST will apply to all low value goods imported by consumers from overseas. Imported low value goods should be subject to the same GST treatment as low value goods purchased by consumers domestically.

Overseas suppliers with an Australian turnover of $75,000 or more will be required to register for GST and collect and remit GST for low value goods supplied to Australian consumers. A 'vendor registration' model will be used for overseas suppliers to register for GST.

These arrangements will be reviewed after two years to ensure they are operating as intended and to take account of any international developments.

GST treatment of digital currencies

Treasury has released a discussion paper on the 'double taxation' of digital currencies under the GST law. This forms part of the Government's *Backing Australian FinTech* statement. Currently where digital currency is used to purchase goods that are subject to GST, consumers are 'double taxed' because GST also applies to digital currency. This may be preventing the use of digital currencies.

Measures impacting other indirect taxes

i) Tobacco excise and excise-equivalent customs duties will be subject to four annual increases of 12.5% from 1 September 2017 to 2020.
ii) The wine equalisation tax (WET) rebate cap will be reduced to $350,000 on 1 July 2017 and to $290,000 on 1 July 2018. This is to address integrity concerns with the rebate and to tighten eligibility criteria.
iii) From 1 July 2017, the excise refund scheme will be extended to domestic distilleries and producers of low strength fermented beverages such as non-traditional cider.

Changes to tax administration

New ATO Tax Avoidance TaskForce

A Tax Avoidance TaskForce will be established within the ATO to undertake enhanced compliance activities targeting multinationals, large public and private groups, and high-wealth individuals. $679 million of funding will be provided to the ATO to establish this taskforce over the next four years. The taskforce will work with other government agencies including the Australian Crime Commission, the Australian Federal Police and AUSTRAC.

Tax whistleblowers

Employees, former employees and advisers to taxpayers who disclose information on tax avoidance about those taxpayers to the ATO will receive improved protection under the law from 1 July 2018. This includes having their identities protected and being protected from victimisation, criminal prosecution and civil action for disclosing the information.

Tax Transparency Code

The Government is encouraging all companies to adopt the Tax Transparency Code (TTC) from the 2016 financial year. The TTC is a voluntary code that medium and large businesses are encouraged to adopt to encourage greater transparency in the corporate sector, particularly in the current climate with the focus on corporate tax avoidance.

Public sector efficiency review

The operation of the Australian Public Service, including the ATO, will be reviewed to achieve efficiencies and manage their transformation to a more modern public sector.

Specifically in relation to the ATO, over the next four years ATO shopfronts will be reduced in favour of 'myGov' shopfronts, digital service delivery will be actively promoted, external compliance assurance processes will be expanded and more efficient processes to externally scrutinise the ATO will be put in place.

Large business and international tax measures

Measures included in the Ten Year Enterprise Tax Plan

Collective investment vehicles

A new tax and regulatory framework will be introduced for two new types of collective investment vehicles (CIV). A 'corporate CIV' will be introduced from 1 July 2017 and a 'limited partnership CIV' will be introduced from 1 July 2018.

Tax consolidation measures

i) The proposed measure to address the tax benefit that arises from double counting of deductible liabilities under the tax consolidation regime announced in the 2013-14 Federal Budget will be modified.
ii) The treatment of deferred tax liabilities under the tax consolidation regime will be amended. The adjustments relating to deferred tax liabilities will be removed from the entry and exit tax cost-setting rules.

Taxing financial arrangements

i) An integrity measure concerning liabilities arising from securitisation arrangements announced in the 2014-15 Federal Budget will be extended to also apply to non-financial institutions with securitisation arrangements. The liabilities will be disregarded if the relevant securitised asset is not recognised for tax purposes.
ii) The taxation of financial arrangements (TOFA) rules will be reformed and new simplified rules will apply from 1 January 2018.

iii) From 1 July 2018, the tax treatment of asset backed financing arrangements, such as deferred payment arrangements and hire purchase arrangements will be amended.

Diverted profits tax for multinationals

From 1 July 2017, a 40% tax will apply to the profits of multinational corporations that are artificially diverted from Australia. This measure is a significant part of the Government's Tax Integrity Package of measures to target companies that shift profits out of Australia to avoid Australian tax through arrangements with related parties.

Where the tax paid on the profit that was diverted overseas is less than 80% of the tax that would have been paid in Australia, it is reasonable to conclude the arrangement involving related parties is designed to reduce tax in Australia and the arrangement does not have enough economic substance, the diverted profits tax will apply.

Multinational corporations that will be subject to the tax are 'significant global entities' with global annual revenue (including related parties) of $1 billion or more. Multinational corporations whose Australian annual turnover is less than $25 million will be exempt from the tax unless they have artificially booked income offshore.

Other measures affecting multinationals in the Tax Integrity Package

i) With effect from 1 July 2016, Australia's transfer pricing rules will be amended to give effect to some of the OECD recommendations made through the OECD's Action Plan on Base Erosion and Profit Shifting (BEPS Action Plan).

ii) From 1 January 2018, and following consultation with the Board of Taxation, rules developed by the OECD in relation to their BEPS Action plan to eliminate hybrid mismatches will be implemented.

The administrative penalties that apply to 'significant global entities' will be increased 100 fold (the maximum penalty will rise from $4,500 to $450,000) from 1 July 2017 where tax disclosure obligations are not met. Where careless or reckless statements have been made, the penalties that apply will be doubled.

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