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TAX MATTERS
Budget Edition 2018

Inside this issue:

Taxation—building resilience

The 2018 Federal Budget is built on the back of a historically strong post-mining boom Australian economy, leading to fairly conservative changes to tax policy.

The Budget's strategy is to provide sustainable tax relief to those in the workforce, stimulating spending and encouraging businesses to invest in creating jobs.

Individuals

The Government is introducing a seven-year *Personal Income Tax Plan* to make tax lower, fairer and simpler. The plan is affordable and consistent.

The first step is to lower taxes for low and middle-income earners, thereby increasing disposable incomes to help take the pressure off household budgets. From 1 July 2018, the Government will introduce the Low and Middle Income Tax Offset, a non-refundable tax offset of up to $530 per annum to Australian resident low and middle-income taxpayers.

The second measure in the plan will tackle bracket creep. From 1 July 2018, the Government will increase the top threshold of the 32.5 per cent personal income tax bracket from $87,000 to $90,000.

The top threshold of the 32.5 per cent personal income tax bracket will increase from $90,000 to $120,000 from 1 July 2022.

The third phase of the Government's *Personal Income Tax Plan* will simplify and flatten the personal tax system by eliminating the 37 per cent tax bracket entirely. From 2024-25, the 37 per cent tax bracket will be abolished to protect middle-income Australians from bracket creep over their working life. This will also allow working Australians to take on additional work and seek advancement without increased tax consequences. This strategy suggests the Government's confidence in a buoyant economy and increased future wages growth.

The increase in Medicare levy from 2 to 2.5 per cent indicated in last year's Budget will no longer proceed. In addition, the Medicare levy low-income thresholds will be increased for singles, families, seniors and pensioners from the 2017/18 income year.

Businesses

The $20,000 instant asset write-off has been extended for small businesses to 30 June 2019, providing more opportunity for them to reinvest in their business and replace or upgrade their assets.

While the extension is a welcomed measure for small businesses; it may prove to be a standard feature with the Government facing difficulty trying to eliminate it in the future.

Topping up your super with downsizer payments

Due to new super measures introduced by the Government, Australians will now be able to contribute part of the proceeds of the sale of their home towards their superannuation.

From 1 July 2018, where the exchange of contracts of sale for a 'main residence' home occurs on or after 1 July 2018, individuals will be able to access the new downsizer super measure.

Eligible individuals can contribute up to $300,000 from the proceeds of selling their home into superannuation. This is not a non-concessional contribution, therefore, it will not count towards an individual's' contributions caps. However, it will count towards an individual's transfer balance cap, set at $1.6 million.

There is no requirement for individuals to downsize by acquiring a smaller or another property, however, individuals must meet the following requirements to access the downsizer contribution:

- You are 65 years or older at the time of making a downsizer contribution
- The contribution amount is from the proceeds of selling your home where the contract of sale was exchanged on or after 1 July 2018
- Your home was owned for 10 years or more by you or your spouse
- The capital gain or loss from the sale is exempt or partially exempt from CGT under the main residence exemption or would be entitled to an exemption if the home was a CGT rather than a pre-CGT asset
- Your home is in Australia and is not a caravan, mobile home or houseboat
- You have provided your super fund with the downsizer contribution form either before or at the time of making your contribution
- The contribution must be made within 90 days of receiving the proceeds of the sale, which is usually the date of settlement
- You have not previously made a downsizer contribution to your super from the sale of another home.

Eligible individuals may make multiple downsizer contributions from the proceeds of a single sale. However, the total of all the contributions must not exceed $300,000 or the total proceeds of the sale less any other downsizer contributions that have been made by your spouse.

Before making a downsizer contribution, check you first meet the eligibility requirements and contact your super fund/s to check that they accept downsizer contributions.

The ATO may issue false and misleading penalties if an ineligible individual makes a downsizer contribution and incorrectly declares they were eligible to make the contribution.

Inactive ABNs subject to cancellation

Periodically, the Australian Business Register (ABR) checks its records for Australian business numbers (ABNs) and automatically cancels those that appear inactive. These checks are occurring throughout 2018.

Sole traders, partnerships or trust ABNs may be cancelled if they have told the ATO they have stopped their business activity, declared no business income for the last two years or not lodged a business activity statement (BAS) or income tax return for more than two years.

Those with outstanding lodgements are advised to bring them up to date or face possible ABN cancellation.

Sole traders, in particular, often have forms outstanding because they think there is no need to lodge if their income is below the tax-free threshold. However, sole traders must lodge the individual tax return including the supplementary section, and business and professional items schedule for individuals, regardless of their income.

Maintaining your ABN registration is important as the public uses ABN Lookup data to verify business and GST status.

Superannuation—living longer

The Government is introducing a series of new measures designed to help Australians keep a greater portion of their superannuation savings pie.

Insurance opt-in

Insurance within super may not be suitable for everyone, particularly young people and those with low balances. From 1 July 2019, insurance will be offered on an opt-in basis for members with low balances of less than $6,000; members under the age of 25; and members who have not received a contribution in 13 months and are inactive. The changes intend to protect low balances from being entirely eroded and reduce incidences of duplicate cover.

Reuniting lost super

The ATO will have the ability to reunite all inactive superannuation accounts where the balances are below $6,000 with the member's active account as of 1 July 2019. This will benefit those with inactive low balance accounts, i.e., low-income earners, young members and seasonal workers.

Protecting your super

The Government is banning exit fees on all super accounts to enable Australians to consolidate their super accounts on a more affordable basis. Additionally, a three per cent annual cap on passive fees charged by super funds on accounts with balances below $6,000 will protect those with low balance accounts to grow and maintain their nest egg.

Avoiding unintentional cap breaches

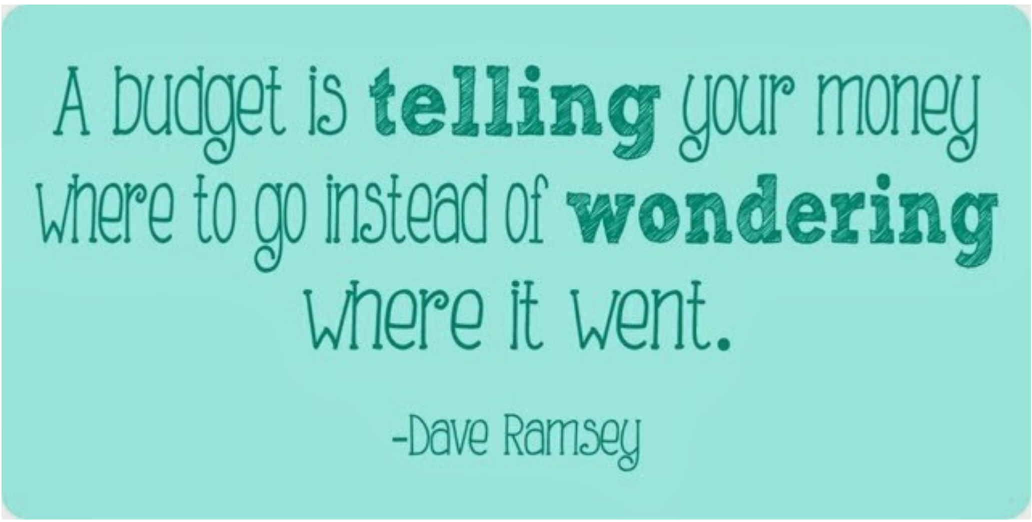
From 1 July 2018, individuals whose income exceeds $263,157 and have multiple employers will be able to nominate that their wages from certain employers are not subject to the Superannuation Guarantee (SG). This will assist in avoiding unintentional breaches to the $25,000 annual concessional contributions cap due to multiple compulsory SG contributions.

Member limit increase

Self-managed super funds and small APRA funds will have the opportunity to increase the maximum number of allowable members from four to six as of 1 July 2019.

Integrity of personal deductible super contributions

From 1 July 2018, additional funding will be allocated to the ATO aimed at improving the integrity of processes for claiming personal superannuation contribution tax deductions. This will enable the ATO to develop a new compliance model and undertake additional compliance and debt collection activities.



Research & Development Incentive Shake-Up

Date of effect 1 July 2018

Applying to income years starting on or after 1 July 2018, the way the research and development (R&D) tax incentive applies will change to focus on 'more intensive' R&D activities, particularly in medical and clinical development. The changes attempt to refocus the incentive on activities that go well beyond what companies would normally do to improve.

Companies under $20m

For companies with an aggregated annual turnover less than $20 million:

- An annual $4 million cap will be introduced on cash refunds for R&D claimants. Amounts that are in excess of the cap will become a non-refundable tax offset and can be carried forward into future income years;
- Clinical trials will be excluded from the $4 million cap on cash refunds, to encourage development in this area; and
- The refundable R&D tax offset will be amended and will become a premium of 13.5 percentage points above the company's tax rate for that year.

Companies over $20m

For companies with aggregated annual turnover of $20 million or more, an R&D premium will be introduced that ties the rates of the non-refundable R&D tax offset to the incremental intensity of R&D expenditure as a proportion of total expenditure for the year.

The marginal R&D premium will be the company's tax rate plus:

- 4 percentage points for R&D expenditure between 0% to 2% R&D intensity;
- 6.5 percentage points for R&D expenditure above 2% to 5% R&D intensity;
- 9 percentage points for R&D expenditure above 5% to 10% R&D intensity; and
- 12.5 percentage points for R&D expenditure above 10% R&D intensity.

The R&D expenditure threshold - the maximum amount of R&D expenditure eligible for concessional R&D tax offsets - will be increased from $100 million to $150 million per annum.

The ATO has expressed concerns in recent years that many claims are being made under the R&D tax incentive for expenditure that does not meet the strict conditions for the tax offset. For example, the ATO's view is that some companies have been claiming the R&D tax offset in connection with normal business activities rather than experiments being undertaken for the purpose of generating new knowledge. In addition to the changes outlined above, additional resources will be provided to the ATO and Department of Industry, Innovation and Science to undertake greater enforcement activity and provide more guidance for those seeking to make claims.

Direct super claims for terminal illness

The Tax Office is now providing individuals who have a terminal illness with the option to make a direct claim for their ATO-held entitlements in super guarantee, superannuation holding account special account or unclaimed super money accounts.

Individuals suffering from a terminal medical condition will no longer have to nominate a provider to receive direct payments from their super account. Instead, the ATO encourages individuals to make a direct application for any entitlements owed via a paper form.

In future, individuals who decide to make a claim directly to the Tax Office will be able to send their application online.

Although it is important to remember that any individuals who were former temporary residents can continue to make a Departing Australia Superannuation Claim via DASP Online or ATO Online.

This can be a sensitive and difficult issue, and individuals are best seeking professional advice.

Integrity—level-playing field

The Government will continue its commitment to strengthen the economy by focusing on improving its integrity measures to create a fairer level-playing field for all.

Funding new ATO enforcement

Additional funds will be allocated from the Budget over four years to fund a new ATO enforcement strategy to tackle the Black Economy. Through this measure, the ATO will implement new mobile strike teams, stricter auditing and a Black Economy Hotline for Australians to report Black Economy and illegal phoenix activities.

Cash payment limit

The Government will commence with a restriction on cash payments made to businesses for goods or services of up to $10,000 from 1 July 2019. Payments over $10,000 must be made via an online banking system or cheque unless payments are with financial institutions or consumer to consumer non-business transactions.

No tax-deductibility for non-compliant payments

From 1 July 2019, the Government is keeping a closer eye on those businesses that try to claim deductions for any payments made to their employees that do not comply with current regulations. Deductions for payments from a business to a contractor will also be disallowed if the contractor does not have an ABN and the business does not withhold any PAYG monies, despite the withholding requirements applying.

Reforms to combat illegal phoenixing

Corporations and tax laws will be strengthened with further measures to prevent illegal phoenix activities. Those measures will include changes to:

- introduce new phoenix offences for individuals who run or open the door to illegal phoenixing;
- stop directors incorrectly backdating resignations to avoid liability or prosecution;
- control the power of related creditors to vote on the appointment, removal or replacement of an external administrator;
- expand the Director Penalty Regime to GST, luxury car tax and wine equalisation tax (to make directors personally liable for company's debts);
- allow the Tax Office to restrict refunds for outstanding tax lodgements.

Personal income tax

The ATO will receive further funding from 1 July 2018 in a bid to strengthen compliance activities on individual taxpayers and their tax agents. This funding is set to provide new compliance activities, a stronger audit presence and prosecutions, improve education and guidance materials, pre-filling of income tax returns and enhance real time messaging to tax agents and individual taxpayers. This measure is set to prevent over-claiming of any entitlements, including tax deductions by higher risk taxpayers and their agents.

Investors—No deductions for vacant land

Date of effect 1 July 2019

Deductions will be denied for expenses associated with holding vacant land. The Government is concerned 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. They expect the measure will also help to prevent 'land banking', which denies the use of land for housing or other development.

Denied deductions will not be able to be carried forward for use in later income years. However, expenses which cannot be claimed as a deduction can form part of the CGT cost base of the property as long as they fall within specific categories (such as interest, borrowing expenses and council rates). This means that the expenses can reduce a capital gain made on future sale, although there are limitations on this which mean that holding costs cannot create or increase a capital loss and cannot generally be taken into account if the property was acquired before 20 August 1991.

Investors—No deductions for vacant land continued

The measure will not apply to expenses associated with holding land that are incurred after:

- a property has been constructed on the land, it has received approval to be occupied and is available for rent; or
- the land is being used by the owner to carry on a business, including a business of primary production.

The measure applies to land held for residential or commercial purposes. However, the 'carrying on a business' test will generally exclude land held for commercial development.

Unfortunately, it appears that this measure may impact on those who incur holding costs in relation to land that is genuinely held for the purpose of producing assessable income, including where the owner is actively constructing a dwelling on the land that will be used as a rental property (Steele's case and ATO ruling TR 2004/4 deal with this area). This is another example of where those doing the right thing will be impacted by the Government becoming fed up with those who aren't.

It also remains to be seen how holding expenses that relate to land held as trading stock will be dealt with under the proposed changes.

Choices—living stronger

The Government is focused on encouraging older Australians to better grow and secure their personal retirement funds.

Retirees exempt from work test

An exemption from the work test will be established to allow retired Australians aged between 65-74 who have total super balances below $300,000 in their first year that they do not meet the work test criteria, to make voluntary payments into their superannuation funds.

Retirement income strategy

Superannuation trustees will now be required to produce a retirement income strategy for their superannuation fund members. This is due to new amendments to the *Superannuation Industry (Supervision) Act 1993*.

The Government is also set to revise the *Corporations Act 2001* to ensure providers of retirement income products will supply standardised and simplified reporting to assist with more informed decision making.

Federal Budget 2018

Pension Work Bonus

Increase in funding to the Pension Work Bonus will mean that pensioners can now receive up to $300 per fortnight before their pension payments are affected. The Bonus will also cover self-employed individuals, who will be entitled to receive up to $7,800 per year without reducing their pension payments.

Funding for older workers program

Additional funding will be provided over four years to form the Skills Checkpoint for Older Workers program, starting from 2018-19. This measure will focus on supporting employees aged 45 to 70 to remain working for longer.

Improved skills for mature age Australians

Funding will be provided over the next five years to help mature age individuals to remain up to date with changing and new skills needed to remain relevant in their workplace.

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