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INDIVIDUALS

SUPERANNUATION – MAXIMUM PENSION ACCOUNT BALANCES $1.6 BILLION

From 1 July 2017, the Government will introduce a 'transfer balance cap' of $1.6 million. This will mean that all individuals will have a maximum amount of benefits which can be held in a pension account and receive concessional income tax treatment. Any increases in the pension account due to net investment earnings exceeding pension withdrawals will not be restricted, but can remain in the pension account.

The effect of this 'maximum pension account balance' is twofold:

- Only those assets supporting these pension accounts will be eligible for 'zero tax' on the investment earnings of those assets (or be considered tax free)
- This will limit the amount that can ultimately be withdrawn as tax free pensions for individual tax payers.

The transfer balance cap will be indexed in accordance with the Consumer Price Index (CPI) but the amount will only be increased in $100,000 increments, on the same basis as the Age Pension assets test.

If an amount is transferred to a pension account that exceeds $1.6 million, the excess amount will be treated in a similar way to excess non-concessional contributions, with a tax charge applying.

For those individuals with existing pension account balances that exceed $1.6 million, they have two choices. As at 1 July 2017, the individual can:

- Transfer the excess amount (above $1.6 million) to an accumulation account balance, or
- Withdraw the excess amount from super (providing they are eligible to withdraw benefits in full).

SUPERANNUATION – CONCESSIONAL CONTRIBUTION CAPS REDUCED

The Government has announced that it will cut the annual cap on concessional contributions (deductible superannuation contributions) to $25,000, applicable to all individuals regardless of age from 1 July 2017.

Deductible contributions include employer Superannuation Guarantee, salary sacrifice amounts, and contributions claimed as deductions in personal tax returns.

Division 293 tax
Also applying from 1 July 2017, the threshold at which Division 293 tax applies has been reduced to $250,000. This means that any contributions caught by Division 293 are effectively taxed at 30%, rather than 15%, up to a maximum additional tax of $3,750.

By way of example, an individual with income of $240,000 and $25,000 in concessional contributions would have a combined income of $265,000. Accordingly, they would pay $2,250 in additional Division 293 tax (15% of $15,000).

Contribution eligibility criteria
From 1 July 2017, the Government will increase the eligibility of individuals up to 75 to make personal deductions for super contributions. Firstly, it will remove the confusing restrictions on taxpayers claiming deductions in their personal tax returns for contributions made to super. No longer will such taxpayers have to show that less than 10% of their income came from employment. Secondly, it is abolishing the 'work test' for taxpayers aged 65 to 74, allowing them to make concessional contributions to super regardless of their age.

SUPERANNUATION – $500,000 LIFETIME CAP FOR NON-CONCESSIONAL CONTRIBUTIONS (AFTER TAX CONTRIBUTIONS)

From Budget night 2016, individuals will be limited to a lifetime non-concessional contribution cap of $500,000 which will replace the existing annual non-concessional contribution cap of $180,000 per year (or $540,000 if the 2 year bring forward rule was applied).

Individuals who have already exceeded the $500,000 lifetime non-concessional contribution cap prior to Budget night will not be penalised or required to remove the excess component from their superannuation savings.

However, individuals making non-concessional contributions after Budget night 2016 will need to be mindful of all non-concessional contributions they have made from 1 July 2007, as the lifetime cap after Budget night applies to all non-concessional contributions made after 1 July 2007.

Example 1

Phillip makes the following non-concessional contributions:

2007/08	$450,000 using the bring forward rule
2011/12	$450,000 using the bring forward rule
2014/15	$450,000 using the bring forward rule
TOTAL	$1,350,000 non-concessional contributions

Under the proposed reform, Phillip has exceeded his lifetime non-concessional cap of $500,000 and he will be excluded from making any further non-concessional contributions in his lifetime, however, he will not have to return any 'excess' non-concessional contributions.

Example 2

Julia makes the following non-concessional contributions:

2013/14	$150,000
2014/15	$180,000
TOTAL	$330,000 non-concessional contributions

Julia is limited to making total non-concessional contributions of $170,000 between Budget night 2016 and when she reaches age 74.

SUPERANNUATION – RESTRICTIONS TO ACCESSING TRANSITION TO RETIREMENT INCOME STREAMS (TRIS)

Under the current rules, Australians who have reached their preservation age (i.e. currently 56 years of age) can commence a Transition to Retirement Income Stream (TRIS) while still working.

As the name suggests, the intention when TRISs were first introduced was that they would assist those wishing to reduce their working hours and 'transition' into retirement before completely giving up full time employment.

The Government is of the opinion that there were some taxpayers who were receiving an unfair tax advantage by commencing a TRIS, while still working in a full time capacity. To combat this perceived advantage, the Government has announced changes to the taxation benefits of commencing a TRIS. The rules around accessing super benefits under a TRIS remain unchanged.

From 1 July 2017, income earned by assets supporting a TRIS will not be tax free in the superannuation fund. The fund will continue to pay tax at 15% on investment earnings. This change will apply to all TRIS accounts, regardless of their start date.

Pensions will be taxed as pensions, not lump sums
Currently the income tax regulations allow, in certain circumstances, an income stream to be taxed as a lump sum benefit in the hands of the taxpayer. This is of benefit if the taxpayer is under 60 years of age, as it allows the amount received to count towards the tax free lump sum threshold of $195,000.

From 1 July 2017 this will be amended. Any benefits withdrawn as pension benefits or income streams will be taxed as income streams in the hands of the taxpayer, removing any tax advantage.

SUPERANNUATION – CATCH-UP CONCESSIONAL CONTRIBUTIONS

From 1 July 2017, members with superannuation balances of less than $500,000 will have the ability to make additional concessional contributions up to the sum of their unused cap amounts. The unused cap amount is the total of the concessional contribution cap amounts that have not been utilised in previous years.

Unused cap amounts
The accrual of unused cap amounts commences on 1 July 2017, and the amounts will be carried forward on a rolling basis for a period of five consecutive years.

This measure will also apply to defined benefit schemes.

Compliance impacts
Clarification is required as to how this measure will work with the personal concessional contribution deduction available to individuals, especially given the abolition of the 10% rule which required an individual to earn less than 10% of their income from employment to be entitled to a tax deduction for personal contributions.

A potential restriction on the unused concessional cap amount may be that no deduction is available where a personal concessional contribution could not have been made in a previous year, because the individual did not have sufficient taxable income to claim the deduction in their Individual Income Tax Return. It is possible that the unused concessional cap may be restricted to the amount that could have been claimed in the available previous years.

If not, individuals may see an advantage in holding off on making contributions into superannuation until they have sufficient taxable income to claim the deduction.

TAX CUTS FOR AVERAGE WAGE EARNERS

The Government has announced that it will increase the average 32.5% personal income tax bracket from $37,001 - $80,000 to $37,001 - $87,000, effective 1 July 2016. It is expected that this will prevent half a million average full-time wage earners from moving into the second top tax bracket until 2019-20.

Furthermore, the Treasurer has indicated that the 2% debt levy on individuals earning more than $180,000 per annum will not be extended beyond its initial three year term, and will cease at the end of the 2016-17 financial year.

Current and Proposed Tax Rates

The current and proposed personal tax rates and thresholds (including the 2% temporary budget deficit levy, but excluding the 2% Medicare levy) are as follows:

	2015-16		2016-17	
	Threshold	Rate	Threshold	Rate
1st rate	$0 - $18,200	0%	$0 - $18,200	0%
2nd rate	$18,201 - $37,000	19.0%	$18,201 - $37,000	19.0%
3rd rate	$37,001 - $80,000	32.5%	$37,001 - $87,000	32.5%
4th rate	$80,001 - $180,000	37.0%	$87,001 - $180,000	37.0%
5th rate	$180,000 +	47.0%	$180,000 +	47.0%

With the Medicare levy included, the top marginal rate is 49% from 1 July 2014 to 30 June 2017.

Low Income Tax Offset

The Government has not included a proposal to change the low income tax offset. The offset will remain at $445 for individuals earning up to $37,000 and reduce by 1.5% for each dollar earned in excess of $37,001, up to a cap of $66,666.

Non-Resident Tax Rates

The current and proposed personal tax rates and thresholds are as follows:

	2015-16		2016-17	
	Threshold	Rate	Threshold	Rate
1st rate	$0 - $80,000	32.5%	$0 - $87,000	32.5%
2nd rate	$80,001 - $180,000	37.0%	$87,001 - $180,000	37.0%
3rd rate	$180,000 +	47.0%	$180,000 +	47.0%

Foreign residents who hold a Special Program Visa (subclass 416), and are employed by an approved employer under the Seasonal Labour Mobility Program, will be taxed at a flat rate of 15%.

GST AND CUSTOMS DUTY REFORMS

The Government has recommitted to implementing its August 2015 proposal to extend the GST to low value goods imported by consumers from 1 July 2017.
The Government also announced a number of minor changes to simplify the GST for small businesses, and customs duties for importers.

Low value import threshold

Currently, GST is not imposed on the importation of goods into Australia which have a customs value of $1,000 or less. Historically, this exemption has been justified by the Government on the basis that the administrative cost of calculating the GST and customs duty on importation of these low value goods exceeds the revenue benefit.

However, following concern from local industry, in August 2015 the Government (in agreement with State and Territory Governments) announced that this exemption would be eliminated from 1 July 2017.

In the Budget the Government has recommitted to this decision. In particular, the Government confirmed that overseas suppliers that have an Australia turnover of $75,000 or more will be required to register and remit GST for low value imported and supplied to Australian consumers. This is a similar model of implementation to that which the Government has introduced into Parliament for intangible supplies to Australian consumers (the so-called Netflix Tax).

Small business reforms

The Government also announced three minor changes to simplify the GST for small businesses. The Government has proposed:

- Extending the option to account on a cash basis to businesses with an annual turnover of less than $10 million from 1 July 2016
- Allowing businesses with an annual turnover of less than $10 million to pay ‘GST instalments’ as determined by the Australian Taxation Office from 1 July 2016
- Allowing businesses with an annual turnover of less than $10 million to use simplified BAS reporting from 1 July 2017 (following a trial in the 2016-17 financial year).

Australian Trusted Trader Programme for Customs Duty

The Government has confirmed it will provide $69.9 million over four years to deliver on this initiative which will provide trade facilitation benefits to businesses with strong security practices and a history of compliant behaviour. In particular, the Government confirmed in the Budget that trusted businesses may be able to access trade benefits such as:

- Reduced levels of inspections
- Reduced reporting requirements
- Expedited border clearance
- Deferral of customs duty to be reported on a monthly basis rather on consignment basis from 2018.

INCREASE TO TOBACCO EXCISE

The Government has announced a number of measures aimed at further discouraging smoking and improving the health of Australians. This includes increasing tobacco excise, and excise equivalent customs duties by 12.5% per year for the next four years. The increases will take effect on 1 September each year, with the first increase to occur on 1 September 2017.

The Government has also announced it will limit the duty free tobacco allowance to 25 cigarettes from 1 July 2017. This is a significant reduction from the current allowance of 50 cigarettes.

The Government will also provide $7.7 million over two years to the Department of Immigration and Border Protection's Tobacco Strike Team in an effort to strengthen its regulatory and enforcement response to illicit tobacco. Changes to the Customs Act 1901 and the Excise Act 1901 will also be made to ensure that enforcement officers have access to and appropriate penalties for illicit tobacco offences.

HIGHER EDUCATION LOAN PROGRAMME

The Government introduced changes to the Higher Education Loan Program (HELP) repayment framework in the 2015 Budget to recover repayments of debts owed by overseas residents who live or intend to live overseas for more than six months in any 12 month period.

From 1 January 2016, individuals were required to update their contact details with the ATO within seven days of leaving Australia. This date extends to 1 July 2017 where an individual already resides overseas.

From 1 July 2017, individuals will be required to submit details of their worldwide income for the financial year to the ATO by 31 October each year. If this income exceeds the minimum repayment threshold, they will be required to make compulsory payments at the same repayment rates as taxpayers who reside in Australia.

Options for reform

The Government has released for community consultation its Redesigning VET FEE-HELP discussion paper, which details the options for reform.

The following changes to the repayment of HELP debts framework to be implemented in 2018 are up for consideration:

- Decreasing the minimum compulsory repayment threshold
- Changing the indexation of HELP repayment thresholds to CPI
- Introducing a renewable lifetime limit on HELP loans
- Restricting the availability of HELP loans for individuals who have permanently left the workforce
- Introducing a household income test for HELP repayments
- Recovering HELP debts from deceased estates.

BUSINESS

TEN YEAR ENTERPRISE TAX PLAN – CHANGE OF TAX RATES FOR SMALL BUSINESS ENTITIES

The Government's Ten Year Enterprise Tax Plan includes a decrease to the current company tax rate as well as the discount applied to unincorporated small business entities (such as individuals and individuals trading through partnerships). These measures will commence from 1 July 2016, with further decreases to company tax rates to apply over the coming ten years.

The measures will work in partnership with the increase to the small business entity turnover threshold portion of the Ten Year Enterprise Tax Plan to provide tax relief to small business entities as part of the Treasurer's growth friendly budget.

Increase of the unincorporated small business tax discount
From 1 July 2015, individuals and individual partners in a partnership with business income of less than $2 million have enjoyed a tax discount of 5% of tax paid on business income. This discount amount is capped to $1,000 per individual.

From 1 July 2016, the new measures seek to increase the annual aggregated turnover threshold to $5 million. This will allow more sole traders and individuals in business partnerships to access the tax discount.

The tax discount will also increase over the coming ten year period, with the first increase to 8% commencing on 1 July 2016. The increases will become effective as follows:

INCOME YEAR	DISCOUNT RATE (%)
2016-17 to 2023/24	8%
2024/25	10%
2025/26	13%
2026/27	16%

The annual tax discount cap of $1,000 per individual will remain in place as the discount rate increases over the next ten years.

While the increase in the turnover threshold results in a larger pool of eligible individuals, retaining the annual tax discount cap provides limited benefit for those who were already eligible to access the concession. These measures are in line with the Budget's growth friendly theme. However, while the annual discount cap remains, the real dollar benefit to those eligible under the extended threshold and increased discount rate remains stagnant.

Reduction of the company tax rate
Companies that fit the small business entity definition (which includes entities with an aggregated annual turnover of less than $2 million) are subject to a company tax rate of 28.5% for the 2016 financial year. Those entities that do not meet the definition (for example those with turnover of more than $2 million) continue to be subject to a tax rate of 30% for the current financial year.

From 1 July 2016, the Ten Year Enterprise Tax Plan measures seek to reduce the applicable company tax rate for companies in conjunction with the increase in the small business entity threshold increases over the coming ten years. Accordingly, the company tax rate applicable to each company will be based on their aggregated annual turnover and their ability to meet the small business entity criteria.

The company tax rate reductions are as follows:

INCOME YEAR	APPLICABLE TURNOVER THRESHOLD	COMPANY TAX RATE (%)
2015-16	$2 million	28.5
2016-17	$10 million	27.5
2017-18	$25 million	27.5
2018-19	$50 million	27.5
2019-20	$100 million	27.5
2020-21	$250 million	27.5
2021-22	$500 million	27.5
2022-23	$1 billion	27.5
2023-24	all companies	27.5
2024-25	all companies	27
2025-26	all companies	26
2026-27	all companies	25

For the financial years prior to 2023, entities that do not meet the applicable turnover thresholds will remain subject to a tax rate of 30%.

Effect on company franking accounts

These progressive changes to the company tax rate will have a number of flow-on effects for company franking account balances and, ultimately, the individual shareholders of the companies affected.

Under the current law, where a dividend is paid to a shareholder, franking credits will be able to be distributed in line with the rate of tax paid by the company making the distribution. This does not change under the proposed amendment. However, the methodology to calculate the maximum franking credit will differ due to the change in corporate tax law.

We have provided an example below that shows the tax impact for an individual shareholder receiving a dividend of $10,000 with a flat marginal tax rate of 40%.

	COMPANY TAX RATE – 30%	COMPANY TAX RATE – 25%
Dividend	$10,000	$10,000
Franking credit	$4,285	$3,333
Taxable income of shareholder	$14,285	$13,333
Tax at 40%	$5,714	$5,333
Franking credit offset	($4,285)	($3,333)
Tax payable by individual shareholder	$1,429	$2,000

The progressive reduction in the company tax rates will also require the following considerations:

- The company tax rate will affect how deferred tax balances are calculated for the purposes of preparing audited company financial statements
- There will be franking account timing issues which will need to be considered. For example, where a company has paid company tax at a rate of 30% in the past and has not paid a dividend, the company may end up in a situation whereby it can only frank a dividend to 25% but has paid company tax in an earlier year at a rate of 30%, leading to an ineffective use of franking credits

- Non-resident shareholders may benefit from the decreased company tax rate on distributions ultimately paid to them from company profits taxed at the lower company tax rates
- Superannuation funds previously entitled to refunds franking credits at 30% will now only receive a refund for the lower company tax rate paid by the company.

SMALL BUSINESS ENTITY TURNOVER THRESHOLD TO BE INCREASED TO $10 MILLION

As part of the Government's Ten Year Enterprise Tax Plan, the small business entity turnover threshold will be increased from $2 million to $10 million from 1 July 2016.

Under the current law, businesses with an aggregated annual turnover of less than $2 million are entitled to access a number of small business tax concessions, including simplified depreciation rules, trading stock rules, and Pay-As-You-Go instalment calculation methods.

From 1 July 2016, we expect that small business tax concessions, such as the following, will be available to businesses with an aggregated annual turnover of less than $10 million:

- Simplified depreciation rules, including the immediate write-off of depreciating assets costing less than the threshold amount ($20,000 until 30 June 2017), and pooling of most other depreciating assets in the general small business pool (30% diminishing value rate and 15% for additions)
- Simplified trading stock rules which allow taxpayers to estimate the value of their trading stock on hand at year end, rather than conducting a stocktake where a reasonable estimation indicates that the stock movement is less than $5,000
- Immediate deduction for prepaid expenses, where the prepayment covers a period of 12 months or less, that ends in the next income year
- Simplified Pay-As-You-Go instalment calculation method using the GDP-adjusted option
- Accounting for GST on a cash basis and paying GST instalments as calculated by the Australian Taxation Office
- Exemption from fringe benefits tax where work-related devices such as mobile phones, laptops and tablets are provided to employees.

However, the Government has indicated that the current $2 million turnover threshold will be retained for the purposes of accessing the small business capital gains tax concessions, and access to the unincorporated small business tax discount will be limited to entities with a turnover of less than $5 million. However, it is unclear whether the new threshold will be applied when determining if businesses can access the new Small Business Restructure rollover relief, which was introduced earlier this year, allowing small businesses to change their legal structure without triggering any income tax liability when business assets are transferred.

DIVISION 7A – TARGETED AMENDMENTS

The Government has indicated it will make targeted improvements to the operation and administration of Division 7A of the ITAA 1936.

It is intended that these changes will provide clearer rules for taxpayers to assist easing their compliance burden while maintaining the overall integrity and policy intent of Division 7A.

Division 7A is an extremely effective integrity provision designed to ensure that profits are not distributed to the owners of a company in a tax effective manner. If Division 7A is breached, the taxpayer will be deemed to have been paid a dividend out of profits on which they are taxed, but without the benefit of franking credits.

The Division 7A rules are extremely complex and lengthy, meaning the rules are not easy to understand. Mistakes can be easily made and corrective action to avoid harshness of the rules is not easy to implement. At present, if taxpayers are caught by Division 7A, their options for remedial actions are extremely limited. These generally involve treating the amount drawn from the company as a loan with minimum principal and interest repayment terms.

Taxpayers have the option of applying to the Commissioner for relief. This involves applying to the Commissioner to exercise his discretion to disregard a deemed dividend, or allow it to be franked in certain circumstances. The Commissioner's power to do so is discretionary only, and broadly is only available where a taxpayer has made an honest mistake, or an inadvertent omission, or circumstances were beyond the taxpayer's control and they would suffer undue hardship if the loan were treated as a dividend.

In the 2016-2017 Budget, the Government has indicated it will implement changes that may make it easier to repair an unintentional Division 7A liability. In particular, the Budget Papers indicate the Government will include the following changes to Division 7A:

- A self-correction mechanism for inadvertent breaches of Division 7A
- Appropriate safe-harbour rules to provide certainty with simplified Division 7A loan arrangements
- A number of technical adjustments to improve the operation of Division 7A and provide increased certainty for taxpayers.

These changes draw on a number of recommendations from the Board of Taxation's Post-implementation Review into Division 7A and will apply from 1 July 2018.

NATIONAL INNOVATION AND SCIENCE AGENDA

The Budget added few new initiatives to the Government's National Innovation and Science Agenda (NISA) which continues to focus on the start-up and small and medium enterprise communities.

Importantly, the Government did not announce any changes to its flagship innovation programme, the R&D tax incentive. In the absence of any changes to the tax incentive, the reduction in the small business income tax rate to 25% over the next ten years has the added benefit of improving the targeting of the R&D Tax Incentive towards small business.

Starting in the 2016-17 financial year, the small business tax rate will drop from 28.5% to 27.5%, increasing the effective net after-tax R&D benefit for businesses with a turnover of less than $10 million to 17.5%. Assuming the R&D offset rates remain the same over the next ten years, the net after-tax benefit for small businesses will continue to increase to 18% in 2024-25 financial year and 20% in the 2026-27 financial year.

Newly announced NISA initiatives

Support for the FinTech sector

In a move to provide additional assistance in supporting the growth of Australia's financial technology (FinTech) industry, the Government is working with ASIC to propose a 'regulatory sandbox' to allow for start-ups and existing FinTech businesses to test their ideas for up to six months with a group of customers in a regulated environment. Specifically, this will provide start-ups who have limited funds to bypass the expensive and complex financial regulatory process, which allows them to focus purely on trialling their innovative products. Furthermore, the Government is also requesting feedback on how best to ensure FinTech start-ups can access the venture capital concessions.

Previously announced NISA initiatives

In addition to the newly announced initiatives, the following were re-announced:

- Tax incentives for investors in innovative start-ups, including:
    - A 20% non-refundable tax offset on investment capped at $200,000 per investor, per year
    - A ten year capital gains tax exemption for investments held for 12 months or more.

  However, under the proposal the incentive will be limited to investments in start-up companies that have expenditure of less than $1 million and income of less $200,000 in the previous income year. This initiative passed the House of Representatives on 3 May 2016.

- Changes to employee share scheme rules which introduced tax concessions for employees of eligible start-up companies and reversed some of the unpopular changes which were made to the ESS tax laws on 1 July 2009, particularly in respect of options
- Relaxation of the same business test to facilitate access to carry forward losses where there has been a change in ownership
- Changes to depreciation rules for intangible assets to allow taxpayers to self-assess the tax effective life of acquired intangible assets
- Amendments to the Corporations Act to establish a regulatory framework to facilitate crowd sourced funding by small, unlisted public companies
- Changes to Venture Capital Limited Partnerships. Under the proposed arrangements:
    - Partners in a new Early Stage Venture Capital Limited Partnership (ESVCLP) will receive a 10% non-refundable tax offset on capital invested during the year
    - The maximum fund size for ESVCLPs will be increased from $100 million to $200 million
    - ESVCLPs will no longer need to divest a company when its value exceeds $250 million
    - The eligibility and investment requirements will be relaxed to allow managers to undertake a broader range of investment activities and greater diversity of investors
- Changes to insolvency laws including:
    - Reducing the current default bankruptcy period from three years to one year
    - Introducing a ‘safe harbour’ for directors from personal liability for insolvent trading if they appoint a restructuring adviser to develop a turnaround plan for the company and include clauses in contracts that allow contracts to be terminated solely due to an insolvency event, unenforceable if a company is undertaking a restructure(‘ipso facto’ clauses)
- Establishment of a $250 million Biomedical Translation Fund
- Establishment of the new CSIRO Innovation Fund to support the early stage commercialisation of innovations from CSIRO, universities and other publicly funded research bodies
- Establishment of an $8 million fund for new and high performing incubators.

Changes to the Clean Energy Finance Corporation (CEFC)

- Adjusting the CEFC's investment mandate to allocate $1.0 billion of the existing funding over the next ten years to the Clean Energy Innovation Fund for emerging clean energy technologies.

TOFA RULES TO BE SIMPLIFIED

The Government is proposing broad reforms to the Taxation of Financial Arrangements (TOFA) legislation to improve certainty and reduce compliance costs. The changes will apply to income years commencing on or after 1 January 2018.

The law currently provides rules that calculate the amount and timing of gains and losses on financial arrangements. While designed for the largest taxpayers, in practice, these rules have tended to apply to a significant group of smaller taxpayers, often adding substantial complexity in interpreting how they should be applied.

The changes relate to four key components:

- A 'closer link to accounting' to better align tax and accounting treatments
- Simplified accruals and realisation rules that limit their application to reduce spreading gains and losses, and simplify the calculations
- A new tax hedging regime which is easier to access, encompasses more types of risk management arrangements and removes the direct link to financial accounting
- Simplified rules relating to how foreign currency gains and losses are taxed.

This announcement also confirmed that the Government will continue with previously announced measures that have not yet been legislated.

These include:

- Amendments to tax hedging rules to ensure they operate as intended (as announced in the 2011-12 Budget)
- Extending the range of entities that can use a functional currency. This will allow certain trusts and partnerships that keep accounts predominantly in a foreign currency to use that currency to calculate net income (which was also announced in the 2011-12 Budget)
- Amendments relating to foreign currency regulations to provide technical and compliance cost savings measures (as per the 2004-05 Mid-Year Economic and Fiscal Outlook).

The impact of these changes includes a reduction in the scope of the law (by removing the majority of taxpayers from the TOFA rules), improving the certainty of its application and, in turn, an anticipated reduction in compliance costs.

ENHANCING ACCESS TO ASSET BACKED FINANCING

The Government is seeking to align the treatment of asset backed financing arrangements to interest bearing loans and investments. Asset backed financing arrangements include hire purchase arrangements and deferred payment plans like finance and operating leases. These changes are proposed to apply from 1 July 2018.

Changes to asset backed financing arrangements

Currently, the tax treatment of an asset backed financing arrangement depends on its classification as an operating lease or a hire purchase arrangement. As an operating lease, the lessee is entitled to a tax deduction for lease payments incurred during the year. Under a hire purchase agreement, the lessee is entitled to a tax deduction on the interest repayment portion of the lease payment and depreciation deductions for the cost of the asset.

While the announcement suggests that the changes will broaden the scope for capital investment and remove barriers to using these arrangements, the specific details are yet to be released.

TAX CONSOLIDATION CHANGES

The Government has announced three new measures designed to modify, broaden and defer certain previously announced integrity measures within the tax consolidation regime.

Integrity measures for liabilities from securitised assets

The first is an extension of measures concerning the recognition of liabilities for non-financial institutions arising from securitisation arrangements for the purposes of the entry and exit Allocable Cost Amount (ACA) calculations under the tax consolidation regime.

The measure relating to securitised assets was previously introduced in the 2014-15 Budget measure *Closing the loophole in the consolidation regime – securitised asset*s which applied only to financial institutions.

When a company holds securitised assets, the accounting treatment requires that the company recognise the relevant liabilities in the financial statements without recognising the associated assets subject to the securitisation. This can create a tax advantage where the entity is entering or leaving a consolidated group. On entry, this results in an overallocation of entry ACA to the other assets held by the joining entity. On exit, the exit ACA may be understated.

To address the mismatch, the Government announced in the 2014-2015 Budget that financial institutions that held securitisation arrangements would be prevented from including the value of the securitised liabilities in their entry and exit ACA calculations unless the securitised asset is also recognised. The Budget announcement extends these amendments to apply to all entities, not just financial institutions.

The amendment will apply to arrangements that commence from Budget night. In addition, the Government announced that transitional rules will apply to arrangements entered into prior to 3 May. These transitional rules have not yet been released.

Removal of deferred tax liabilities

The tax consolidations regime's treatment of the deferred tax liability will be amended by removing adjustments to deferred tax liabilities from the consolidation entry and exit tax cost-setting rules.

These changes will apply to entities that join or leave a tax consolidated group after the date amending legislation is introduced in Parliament.

Currently there is a commercial/tax mismatch under the consolidation entry and exit tax cost-setting processes for deferred tax liabilities which gives rise to integrity risks and uncertainty. This measure will more closely align the commercial and tax outcomes, reduce complexity and improve the integrity of the consolidation regime.

Removing the double benefit of deductible liabilities

The Government will modify a previously announced 2013-14 Budget integrity measure that prevents a consolidated group from obtaining a double tax benefit when an entity with deductible liabilities joins the group. The modifications mean that a consolidated group that acquires a subsidiary with deductible liabilities will no longer include those liabilities in the consolidation entry tax cost setting process. This removes the double tax benefit. The start date for this measure has also been deferred from 14 May 2013 to 1 July 2016.

The previous 2013-14 Budget measure required the consolidated group to recognise an additional income amount over the first four years after acquiring an entity with deductible liabilities. The modified approach of denying an increase in the consolidated entry cost setting process will result in lower depreciation allowances over a longer period of time.

OTHER

ESTABLISHING THE TAX AVOIDANCE TASKFORCE AND BETTER PROTECTION FOR WHISTLEBLOWERS

The Government will introduce a series of measures aimed at significant tax avoidance. These measures form part of the Government's Tax Integrity Package, which will strengthen the integrity of Australia's tax system. The taskforce is expected to raise $3.7 billion in tax liabilities over the next four years, largely funding the Government's proposed tax breaks.

Tax Integrity Package

The Treasurer warned that those doing the wrong thing should have no doubt that deliberate tax avoidance and evasion will no longer be tolerated, with the Treasurer now referring to these activities as tax crimes.

The centrepiece of the package is the creation of the Tax Avoidance Taskforce. This will be charged with enabling the ATO to undertake enhanced compliance activities targeting multinationals, large public and private groups, and high wealth individuals. These better targeted audits are tasked with delivering higher collections of unpaid taxes.

The Government also announced enhanced protection for tax whistleblowers to take effect from 1 July 2018. Individuals, employees, former employees and advisers will benefit from 'strengthened' protections where they disclose information to the ATO on tax avoidance behaviour.

While the details are scant, it is understood that whistleblowers can expect to have their identity protected, and have protection from civil and criminal action for disclosing information to the ATO.

In addition, new legislation will be introduced to strengthen data sharing protocols between the ATO, ASIC, Australian Crime Commission, the Australian Federal Police, and AUSTRAC, leading to a more efficient approach to dealing with tax crime.

PUBLIC SECTOR TRANSFORMATION AND ATO EFFICIENCY REVIEW

The Government intends to transform and modernise the public sector by reinvesting $500 million through some specific (though unannounced) initiatives. This investment is expected to net savings of $1.4 billion over the three years.

Specifically, in relation to the ATO, the Government seeks to achieve efficiency savings of $21.8 million over four years from 2016-17 by:

- Reducing stand alone and co-located ATO shopfronts in favour of myGov shopfronts
- Further promoting digital service delivery
- Expanding ATO external compliance assurance processes (we interpret this to mean an increase in automated data matching checks)
- Implementing more efficient processes for the external scrutiny of the ATO.

With regard to external scrutiny, we note that the ATO made a submission to the Standing Committee on Tax and Revenue on 11 March 2016 which suggested the following measures to increase ATO efficiency:

- Less frequent but more meaningful scrutiny including whole-of-organisation reviews
- Sufficient time lapse between reviews to allow for implementation and measurement of agreed, recommended improvements
- Time bound reviews
- Reviews that focus on material issues
- Disregard for recommendations that too easily impose more red tape without commensurate return
- Response procedures to be streamlined
- Implementation of differential regulation and earned autonomy for all scrutineers and across agencies for government and interagency reviews/checks.

COLLECTIVE INVESTMENT VEHICLES PROPOSED CHANGES

The Government has announced the introduction of a new tax and regulatory framework for two new types of collective investment vehicles (CIVs). CIVs allow investors to pool their funds and have them managed by a professional funds manager.

Staged introduction of corporate and limited partnership CIVs

Under the new framework, a corporate CIV will be introduced from the income year starting on or after 1 July 2017 and a limited partnership CIV will be introduced from the income year starting on or after 1 July 2018. The new CIVs will still need to satisfy similar eligibility criteria as a managed investment trust. This includes being widely held and engaging in primarily passive investment. Investors in the new proposed CIVs will generally be taxed as if they had invested directly.

The proposals are intended to enhance the international competitiveness of the Australian managed funds industry and maximise the effectiveness of related Government initiatives aimed at increasing access to overseas markets, including the Asia Region Funds Passport.

DECREASE IN WINE EQUALISATION TAX (WET) REBATE; EXTENSION OF EXCISE REFUND SCHEME

WET amendments

Responding to calls from the industry for reform, changes to the wine equalisation tax (WET) will be introduced in an attempt to strengthen the reputation of Australia’s wine industry.

Effective from 1 July 2017, the WET rebate cap will be reduced from $500,000 to $350,000. This will be further reduced to $290,000 on 1 July 2018. This is not expected to impact smaller wine producers who do not generally claim up to the current $500,000 rebate cap.

Additionally, further eligibility criteria for the WET rebate will be introduced from 1 July 2019, which will restrict wine producers eligible to claim the rebate. These criteria will be drafted subject to further consultation with affected parties.

These changes address concerns surrounding the oversupply of wine and wine grapes in the industry. The reduction in the rebate and restriction in eligibility criteria will also address concerns surrounding multiple claims of the producer rebate by related entities.

To further promote the reputation of the Australian wine industry on the world stage, the Government has stated it will provide $50 million to Australian Grape and Wine Authority over a four year period with the aim of benefiting regional wine producing communities. This funding will be available from 1 July 2016.

Excise refund scheme
In a positive change for distillers, the Government has extended the excise refund scheme to domestic spirit producers.

From 1 July 2016, the Government's existing excise refund scheme will be extended to producers of whiskey, vodka, gin, liqueur, and low strength fermented beverages (such as non-traditional cider). Breweries eligible for this refund will be able to claim a refund of up to 60% of excise paid up to a cap of $30,000 per financial year.

It should be noted that wine producers who benefit from the WET rebate are not able to claim under the excise refund scheme. Additionally, the refund scheme will not be extended to alcopop producers.