Budget 2013/14

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Highlights

2013/14 Federal Budget Highlights

The Federal Treasurer, Mr Wayne Swan, handed down his sixth budget at 7:30 pm (AEST) on 14 May 2013. The 2013/14 Federal Budget could be described as a moderate one in the context of the current budget deficit of $18b. It sets a pathway to return the budget to balance in 2015/16 and to surplus by 2016/17 but with continuing investment in the economy.

In terms of revenue measures, the budget largely aims to protect the corporate tax base from international profit-shifting and erosion, close loopholes and better target concessions. Here are the tax and superannuation highlights.

Individuals and families

Medicare levy low income thresholds will increase

The Medicare levy low income thresholds for the 2012/13 income year will increase to:

1. $20,542 for individuals, and $32,279 for pensioners eligible for the Seniors and Pensioners Tax Offset; and
2. (ii) $33,693 for families, with the additional family threshold amount for each dependent child or student increasing to $3,094 (previously $3007).

Date of effect: These measures apply from 1 July 2012. *Source: Budget paper No 2, p 29.*

Increase in the Medicare levy by 0.5%

As previously announced, from 1 July 2014, the government will increase the Medicare levy by 0.5% from 1.5% to 2% to provide funding for DisabilityCare Australia (i.e., the national disability insurance scheme). Low-income earners will continue to receive relief from the Medicare levy through the low income thresholds for singles, families, seniors and pensioners. The current exemptions from the Medicare levy will also remain in place.

Date of effect: These measures apply from 1 July 2014.

Phasing out the net medical expenses tax offset

The net medical expenses tax offset (NME tax offset) will be phased out with transitional arrangements applying to those who currently claim the offset as follows:

1. Only those taxpayers who claim the (NME tax offset) for the 2012/13 income year will be eligible for the (NME tax offset) for the 2013/14 income year if they have eligible out of pocket medical expenses above the relevant thresholds. Similarly, only those who claim the (NME tax offset) in 2013/14 may be eligible for the (NME tax offset) in 2014/15.
2. The (NME tax offset) will continue to be available for taxpayers for out of pocket medical expenses relating to disability aids, attendant care or aged care expenses until 1 July 2019 when DisabilityCare Australia (i.e., the national disability insurance scheme) is fully operational and aged care reforms have been in place for several years.

Date of effect: These measures apply from 1 July 2012. *Source: Budget paper No 2, p 30.*

Measures for a more sustainable family payments system

Abolition of the Baby Bonus

New family payment arrangements for newborns will replace the Baby Bonus from 1 March 2014, and the "work test" under the Paid Parental Leave scheme will be extended:

1. Family Tax Benefit Part A (FTB Part A) payments will be increased by $2,000, to be paid in the year following the birth or adoption of a first child or each child in multiple births, and $1,000 for second and subsequent children. The additional FTB Part A will be paid as an initial payment of $500, with the remainder to be paid in seven fortnightly instalments.
2. Parents who take up Paid Parental Leave (PPL) will not be eligible for the additional

FTB Part A component. However, the work test under the PPL scheme will be extended so that parents will be able to count periods of government PPL as "work", just like employer-funded PPL.

As a result of these reforms, the Baby Bonus will be abolished.

This measure acts on a recommendation of the *Australia's Future Tax System* review (the Henry Review).

Date of effect: This measure will apply from 1 March 2014. *Source: Budget Paper No 1, pp 1-18 and No 2, p 144; Minister for Families, Community Services and Indigenous Affairs' press release "A more sustainable family payments system", 14 May 2013.*

Continuing indexation pauses

Indexation pauses on higher income limits will continue for a further three years until 1 July 2017. Broadly, this means that the income limit for FTB Part B, the dependency tax offsets, the Paid Parental Leave and Dad and Partner Pay schemes will remain at $150,000.

Date of effect: This measure will apply until 1 July 2017.

Change to eligibility age for FTB Part A

From 1 January 2014, FTB Part A will only be paid to families up to the end of the calendar year that their child, 16 or over, completes school. Youth Allowance will continue to be available for eligible young people who need financial support for post secondary study or while they are looking for work.

Date of effect: This measure will apply from 1 January 2014.

Reducing claim period for family assistance lump sum claims

Families that choose to wait until the end of the financial year to claim their FTB entitlement or Child Care Benefit will now have a grace period of one year instead of two years. This change will start for the 2012/13 entitlement year, meaning families will have 12 months from the end of the year (e.g., until 30 June 2014 in respect of the 2012/13 entitlement year) to claim their payments.

Date of effect: This measure will apply from 1 July 2012.

Change to rules for receiving payments overseas

From 1 July 2014, the length of time that families can be temporarily overseas and continue to receive family payments will reduce from three years to one year.

Date of effect: This measure will apply from 1 July 2014.

Removal of higher education debt repayment discounts

The following discounts relating to the Higher Education Loan Program will be removed:

1. the 10% discount available to students electing to pay their student contribution up-front, and
2. the 5% bonus on voluntary payments made to the Tax Office of $500 or more.

Date of effect: This measure will apply from 1 January 2014. *Source: Budget Paper No 2, p 216.*

Cap of $2000 on Self-education expense claims

As previously announced, from 1 July 2014, Taxpayers will be able to claim a tax deduction of up to $2,000 of work-related self-education expenses in an income year. Deductible education expenses are costs incurred in undertaking a course of study or other education activity, such as conferences and workshops, and include tuition fees, registration fees, student amenity fees, textbooks, professional and trade journals, travel and accommodation expenses, computer expenses and stationery, where these expenses are incurred in the production of the taxpayer’s current assessable income.

Employers are generally not liable for fringe benefits tax for education and training they provide or fund for their employees, in order to support employers investing in the skills of their workers. This treatment will be retained, unless an employee salary sacrifices to obtain these benefits.

Date of effect: This measure will apply from 1 July 2014. *Source: Treasurer's press release,*

13 April 2013. The government will consult closely on this proposal and a discussion paper will be released in late May 2013 as part of the consultation process.

Carbon Tax – Deferral of 2015/16 personal tax cuts

As part of the Clean Energy Future Package, the carbon price is projected to fall from $25.40 in 2014/15 to $12.10 in 2015/16. Accordingly, as previously announced, income tax cuts that had been already legislated (by way of increasing the tax-free threshold) and due to commence on 1 July 2015 will be deferred. Therefore, no change to tax cuts that applied from 2012/13 income year.

Date of effect: This measure is deferred. *Source: Budget Paper No 2, p 24; Treasurer's press release "Clean Energy Future Package Working in Australia's Interest", 8 May 2012.*

Military – Compensation for legal advice exempt from income tax

An income tax exemption will be made available for compensation provided for legal advice to beneficiaries under the *Military Rehabilitation and Compensation Act 2004* (the MRC Act).

This measure is in response to the Review of Military Compensation Arrangements. It extends the existing income tax exemption for financial advice under the MRC Act.

Date of effect: This measure will apply from 1 July 2013. *Source: Budget Paper No 2, pp 37-38.*

Donations – Anzac Centenary Public Fund listed as a deductible gift recipient

As part of the *Anzac Centenary Program 2014-18*, the Anzac Centenary Public Fund is to be listed as a deductible gift recipient.

Source: Budget Paper No 2, p 22.

Superannuation

Reduction of higher tax concessions for contributions of very high income earners – minor amendments

Minor amendments will be made to the 2012/13 Budget that from 1 July 2012, broadly,

individuals with 'income' greater than $300,000 will have their concessional contributions taxed at 30% and not at 15%.These minor amendments involve:

- exempting from the measure employer contributions for Federal judges sitting on or after 1 July 2012 who are entitled to a benefit payable under the *Judges' Pension Act 1968*, and employer contributions made to constitutionally protected funds for State higher level office holders sitting on or after 1 July 2012 (to mitigate constitutional risks)
- using a similar definition of income for the measure to that used for calculating whether an individual is liable to pay the Medicare levy surcharge, and
- refunding former temporary residents the tax paid under the measure as they effectively do not receive any concessional tax treatment on their contributions to superannuation as a result of the operation of other rules.

Date of effect: This measure will apply from 1 July 2012. *Source: Budget Paper No 2, p 38.*

Low income superannuation contribution – technical amendment

The eligibility criteria for the low income superannuation contribution (LISC) will be amended to now pay individuals with an entitlement below $20. Previously, the LISC was not paid if it would be less than $20. Entitlements under $10 will be rounded up to $10.

The LISC effectively refunds, up to $500 a year, the tax paid on superannuation concessional contributions for people with incomes up to $37,000.

Source: Budget Paper No 2, p 266.

Superannuation – a fairer excess contributions tax system

As previously announced, the government will reform the system of excess contributions tax ('ECT') in respect of excess concessional contributions made from 1 July 2013, by allowing individuals to withdraw such excess contributions from their superannuation fund. Any such excess concessional contributions will then be taxed at an individual's marginal tax rate, plus an interest charge to recognise that the tax on excess contributions is collected later than normal income tax.

Under the current ECT arrangements, excess concessional contributions are taxed at the top marginal tax rate (46.5%) regardless of the personal marginal tax rate faced by the individual. In addition, individuals are only able to withdraw excess concessional contributions the first time they make an excess contribution after 1 July 2011, and only where that excess does not exceed $10,000.

Date of effect: This measure will apply from 1 July 2013. *Source: Joint Treasurer's and the Minister for Financial Services and Superannuation press release, 5 April 2013.*

Superannuation – higher concessional contributions cap

As previously announced, the government will simplify the design and administration of the proposed higher concessional contributions cap, by providing a $35,000 concessional cap to anyone who meets certain age requirements, as follows:

• From 1 July 2013 (i.e., from the 2013/14 income year), people aged 60 or more will be able to access the higher $35,000 concessional contributions cap; and

• From 1 July 2014 (i.e., from the 2014/15 income year), people aged 50 or more will be able to access the higher $35,000 concessional contributions cap.

The new higher cap will **not** be limited to individuals with superannuation balances below $500,000 in light of feedback from the superannuation sector that this requirement would be difficult to administer. When the general concessional cap reaches $35,000 through indexation, it will apply to all individuals from that time forward. The general concessional cap is expected to reach $35,000 from 1 July 2018 based on current forecasts.

Date of effect: This measure will apply from 1 July 2013 (aged 60 or more), 1 July 2014 (aged 50 or more) . *Source: Joint Treasurer's and the Minister for Financial Services and Superannuation press release, 5 April 2013.*

Superannuation – reform to tax exemptions for earnings on assets supporting income streams – including superannuation pensions

As previously announced, from 1 July 2014, the government will limit the tax exemption for earnings on superannuation assets supporting retirement income streams, broadly as follows:

1. Earnings on superannuation assets supporting income streams (e.g., superannuation pensions) will be tax-free up to $100,000 per year for each individual; and
2. Earnings above the $100,000 threshold will be taxed at the same concessional rate of 15% that applies to earnings in the accumulation phase.

Under this measure, the $100,000 threshold will be indexed to the CPI and will rise in $10,000 increments. Furthermore, for assets that were purchased before 5 April 2013, the measure will only apply to capital gains that accrue after 1 July 2024. Capital gains that are not exempt, may still be eligible for the 33⅓% discount, and will therefore be effectively taxed at a rate of 10%.

This measure will also apply to defined benefit funds, so that members of such funds will face a corresponding decrease in their tax concessions in the retirement phase.

Date of effect: This measure will apply from 1 July 2014. *Source: Joint Treasurer's and the Minister for Financial Services and Superannuation press release, 5 April 2013.*

Businesses

Non-corporate entities with turnover < $20m excluded from making monthly payg instalments

All large entities will be required to make monthly Pay As You Go (PAYG) income tax instalments, including trusts, superannuation funds, sole traders and large investors. The measure extends the previously announced proposal to apply the PAYG instalment system to large companies.

In summary, the move to monthly PAYG instalments will apply as follows:

- companies with turnover of more than $1b will still move to monthly PAYG instalments from 1 January 2014
- companies with turnover of $100m or more will still move to monthly PAYG instalments from 1 January 2015
- companies with turnover of $20m or more, and all other entities in the PAYG instalment system with turnover of $1b or more, will move to monthly PAYG instalments from 1 January 2016, and
- all other entities in the PAYG instalment system with turnover of $20m or more will move to monthly PAYG instalments from 1 January 2017.

Entities, other than head companies or provisional head companies, that have a turnover of less than $100m and report GST on a quarterly or annual basis, will not be required to pay PAYG instalments monthly.

In addition, entities in the taxation of financial arrangements (TOFA) regime will assess their entry to monthly instalments using a modified turnover test based on their gross TOFA income, rather than their net TOFA income.

Source: Budget Paper No 2, pp 26-27.

Protecting the corporate tax base from erosion and loopholes – preventing 'dividend washing'

Measures will be introduced to ensure that sophisticated investors will not be able to engage in "dividend washing" allowing them to claim two sets of franking credits on effectively the same parcel of shares.

An investor selling shares ex-dividend and then immediately buying equivalent shares which carry a right to a dividend (cum-dividend) will only be entitled to claim one set of franking credits. To achieve this, changes are proposed to the required holding period of 45 days to gain access to franking credits attached to dividends paid on a share. Changes to the "last-in first-out" rules will also be considered.

The government will consult with business to ensure the best legislative response is implemented.

The measures will only apply to investors with franking credit tax offset entitlements of more than $5,000.

Date of effect

The measure will apply to income years commencing on or after 1 July 2013. *Source: Budget Paper No 2, p 36; Treasurer and Assistant Treasurer's joint press release "Protecting the corporate tax base from erosion and loopholes"; Assistant Treasurer's press release "Protecting the corporate tax base from erosion and loopholes - Measures and consultation arrangements", 14 May 2013.*

Research and development ('R&D") - limiting access to tax incentive

From 1 July 2013, the government will better target support for research and development ('R&D') by limiting access to the R&D tax incentive so that it only applies to companies with annual aggregate Australian turnover of less than $20 billion.

Companies with a turnover of $20 billion or more (that will no longer be able to access the R&D tax offset) will still be able to claim deductions for the R&D expenditure under general tax law provisions.

Date of effect: This measure will apply from 1 July 2013.

Research and development ('R&D") tax incentive – quarterly credits

The government will allow eligible entities with turnover below $20 million to claim the R&D refundable tax offset on a quarterly basis. The measure will apply for each quarter commencing on or after 1 January 2014.

Currently, companies have to wait until their end of year assessment to realise the value of the offset. This measure will allow for the advanced payment of the 45% refundable tax offset on a quarterly basis to improve cash flow and enhance incentives for small innovative companies to invest in R&D activities.

Date of effect: This measure will apply from 1 January 2014.

Relief for farmers – Farm management deposits FMD threshold increased

From 1 July 2014, the non-primary production threshold for FMDs will be increased from $65,000 to $100,000. This means primary producers will be able to claim deductions for FMDs where their non primary production income does not exceed $100,000.

Date of effect: This measure will apply from 1 July 2014.

Additional ATO funding for compliance activities

The government has announced that it will provide funding to bolster the ATO's compliance activities:

1. ATO Trust taskforce - in relation to taxpayers who have been involved in egregious tax avoidance and evasion using trust structures.

Source: Budget Paper No 2, p 43; Assistant Treasurer's press release "ATO Taskforce to target trust misuse", 14 May 2013.

2. Profit-shifting opportunities- targeted at restructuring activity that facilitates profit-shifting opportunities.

Source: Budget Paper No 2, p 36; Treasurer's press release "2013-14 Budget Continues Proud Record of Tax Reform", 14 May 2013.

3. Third party reporting and data matching- The information provided to the Tax Office will also improve the pre-filling of tax returns.

The measure will establish new and strengthen existing reporting systems for:

taxable government grants and specified other government payments
sales of real property, shares (including options and warrants), and units in managed funds

sales through merchant debit and credit services
managed investment trust and partnership distributions, company dividend and interest payments, and
transactions reported to the Tax Office by the Australian Transaction Reports and Analysis Centre.

Source: Budget Paper No 2, p 44.

4. SBR, ABR and ABN administration enhanced- To strengthen up-front checks for issuing Australian Business Numbers and encourage the use of AUSkey, which is a secure credential for accessing the online services of the Australian Business Register.

This measure will also enhance Standard Business Reporting to continue to reduce compliance costs for business.

Source: Budget Paper No 2, p 43.

International Issues

Foreign residents CGT – principal asset test amended & withholding tax introduced

The government will make a number of amendments to improve Australia's foreign resident CGT regime. Two technical amendments to the regime will apply to CGT events with effect from 7.30pm (AEST) 14 May 2013 and a new withholding system to support the regime will apply from 1 July 2016. The amendments will be made to the principal asset test to ensure that indirect Australian real property interests (e.g., certain shares) are taxable if disposed of by a foreign resident. In particular, the amendments will:

1. remove the ability to use transactions between members of the same consolidated group to create and duplicate assets; and
2. value mining, quarrying or prospecting information and goodwill together with the mining rights to which they relate.

Also, from 1 July 2016, a 10% non-final withholding tax will apply to the disposal by foreign residents of certain taxable Australian property. Broadly, where a foreign resident disposes of certain taxable Australian property, the purchaser will be required to withhold and remit to the ATO, 10% of the proceeds from the sale. This withholding regime will **not** apply to residential property transactions under $2.5 million or to disposals by Australian residents.

Date of effect: The amendments to the principal asset test will apply to CGT events with effect from 7.30pm (AEST) on 14 May 2014. The new withholding system to support the CGT regime will apply from 1 July 2016.

Source: Budget Paper No 2, p 35; Assistant Treasurer's press release "Protecting the corporate tax base from erosion and loopholes - Measures and consultation arrangements" ; Treasurer and Assistant Treasurer's joint press release "Protecting the corporate tax base from erosion and loopholes", 14 May 2013.

Tightening certain aspects of Australia's international tax arrangements

From 1 July 2014, the government will make certain changes in order to tighten and improve several aspects of Australia's international tax arrangements. In particular, these changes will involve:

1. tightening and improving the effectiveness of the thin capitalisation rules including changing all safe harbour limits and extending a worldwide gearing test to inbound investors;
2. increasing the *de minimis* threshold from $250,000 to $2 million of debt deductions which will reduce compliance costs for small business; and
3. removing the provision allowing a tax deduction for interest expenses incurred in deriving certain exempt foreign income

Tax information exchange agreement with Uruguay

The government signed a tax information exchange agreement with Uruguay on 10 December 2012. The Agreement allows for the full exchange of information in relation to Australian federal taxes and Uruguayan taxes between tax collection agencies in Australia and Uruguay.

Date of effect

The Agreement enters into force once Australia and Uruguay have completed their respective domestic requirements. *Source: Budget Paper No 2, p 26.*

Export of liquids, aerosols and gels sold under the sealed bag scheme

The government will not proceed with the new regulatory arrangement for liquids, aerosols and gels (LAGs) announced in the *Mid-Year Economic and Fiscal Outlook 2007/08* measure "Verification measures to support new arrangements concerning liquids, aerosols and gels and the sealed bag scheme", following consultation with industry.

Instead, the interim arrangement allowing travellers to pack LAGs in their checked luggage announced in that measure will continue.

Continuation of the interim arrangement means that a more intensive LAGs declaration requirement will not be imposed, thus avoiding an administrative burden on the duty-free industry.

Source: Budget Paper No 2, pp 45-46.

Tobacco excise and excise-equivalent customs duty

The indexation of excise and excise-equivalent customs duty for tobacco and tobacco products will be changed to average weekly ordinary time earnings (AWOTE), instead of the Consumer Price Index. The duty rates will be indexed bi-annually, on 1 March and 1 September each year.

Date of effect

This measure will apply from 1 March 2014. *Source: Budget Paper No 2, p 25.*