The 2012 federal budget was handed down on Tuesday night, 8 May 2012.

There are winners and losers in this years' budget – more so than in the last few years.

There will be some cash hand outs to couples or singles with children who receive Family Tax Benefit part A in June. The education tax refund has been scrapped – no longer to be claimed through the tax return so if you have kept receipts for the 2012 year there is now no need to do so. Instead the government will pay an amount of $410 (primary school) and $820 (high school) to eligible parents/carers commencing in June 2012 and payments will follow in January and July 2013. More information will be available from Centrelink.

The proposed standard tax deduction for individuals has been chopped (this was announced in the 2010 budget where salary and wage earners with simple affairs would no longer have to lodge a tax return to claim a tax deduction), along with the 50% tax discount regarding interest earned.

Company tax rate to stay at 30% – the previously promised 29% rate has been canned.

From 1 July the maximum tax deductible contribution to super for a year will be $25,000 for all people. The $50,000 threshold for those aged 50 or more ceases after 30 June 2012 – THIS IS POSSIBLY THE LAST YEAR TO CONTRIBUTE $50,000 TO SUPER AND CLAIM A TAX DEDUCTION!!

Further to this if you are a high income earner (more than $300,000 adjusted taxable income) your contributions to super will be taxed at 30% rather than 15%. The implementation of this system remains to be seen – hopefully it will not be a return to the bad old days of the super surcharge which cost more to implement and collect the extra tax than was actually raised.

For small business there will be accelerated depreciation for newly acquired motor vehicles of $5,000 in the year of purchase – 2013 tax year. Also beginning in the 2013 tax year is immediate write off for assets costing less than $5,000 (originally announced in the 2010 budget).

These are the issues which will have most effect – there are numerous other issues affecting some people and businesses. For more information see the 2012 Budget document on the following pages from the Institute of Chartered Accountants.

THOMSON REUTERS WEEKLY TAX BULLETIN

Issue 19, 8 MAY 2012

SPECIAL ISSUE - 2012 FEDERAL BUDGET NIGHT REPORT

[With Special Comments by Reuters News]

CAPITAL GAINS TAX

SUPERANNUATION

GST MEASURES

OTHER MEASURES

EXECUTIVE SUMMARY

[640] 2012-13 Federal Budget: a small surplus, company tax cut scrapped, plus many more tax and super changes

On 8 May 2012, the Treasurer handed down the 2012-13 Federal Budget, his 5th and arguably most challenging (and perhaps most controversial), Budget.

The much talked about and speculated surplus has materialised. The Treasurer revealed a $1.5bn surplus for 2012-13 (see further details below).

The pre-Budget speculation about reduced tax breaks for companies to help fund the surplus has come true, with the ***proposed company tax rate reduction to 29% scrapped altogether*** (as the Government considered it could not get the cut through Parliament). Measures to provide a standard tax deduction and a 50% discount on interest income have also been scrapped. In addition, a range of CGT changes were announced, including removal of the CGT discount for non-residents.

The expected doubling of the superannuation contributions tax for those on incomes above $300,000 was also confirmed. Significantly, the proposal to allow people with super balances below $500,000 to contribute $50,000 to super as concessional contributions has been deferred to 1 July 2014. For 2 years from 1 July 2012, everyone will be entitled to make only $25,000 in concessional contributions to their super.

A widely talked about possible Budget target was the diesel fuel rebate. However, no changes to the rebate were announced.

An outline of the major announcements is given below.

Economic outlook

The Treasurer said the total write-down in tax collections since the GFC was around $150bn. He said this had contributed to a deficit in 2011-12 of $44bn, and means net debt will peak at 9.6% of GDP. Mr Swan said the decisions in the 2012-13 Budget would return the Budget to a $1.5bn surplus in 2012-13.

The Budget Papers said the challenge in returning to surplus had increased since MYEFO (November 2011) with the recovery in tax receipts weaker than anticipated. Tax receipts (excluding GST) in 2012-13 have been revised down by $4.6bn since MYEFO. The Government said the return to surplus in 2012-13 was being achieved by the Government making net savings of $3bn and lower payments than expected at MYEFO.

The Government said the fiscal consolidation across the forward estimates "is being supported by the post global financial crisis recovery in tax receipts". Notwithstanding this rebound, the Government expects tax receipts as a share of GDP to reach around 1 percentage point below the unsustainable levels reached in the mid 2000s. According to the Government, this means that tax as a proportion of GDP in 2011-12 and the previous 2 years is the lowest it has been since 1993-94. In response, the Government said it has made $33.6bn in savings in the 2012-13 Budget.

The Treasurer said the Australian economy is expected to grow "around trend" over the next 2 years, while real GDP growth is forecast to be 3.75% in 2012-13 and 3% in 2013-14.

As recently as 29 April 2012, the Treasurer forecast a revenue downgrade in the Budget following weaker-than-expected collections over the last 6 months. He said revenue collections would be down by a further $5bn in both 2012-13 and 2013-14 compared to the last forecasts in the mid-year budget update in November 2011. Mr Swan said that would make the task of returning to surplus "that much harder". Because of the lower-than-estimated tax revenue, the Treasurer said the Government needed "to find substantial savings in the Budget". The measures announced in the Budget certainly amount to significant savings, but the concern is at what cost?
Revenue measures announced

The major revenue measures announced in the Budget included:

- Proposed company tax rate reduction to 29% scrapped
- Also scrapped were the proposal for a standard tax deduction and the 50% discount on interest income
- Business carry-back of losses confirmed
- LAFHA changes announced
- A doubling of the super contributions tax to 30% for those earning over $300,000
- Deferral for 2 years to 1 July 2014 of the higher concessional super contributions cap for over 50s
- Limit on ETP offset for "golden handshakes"
- Means testing the medical expenses tax offset
- Non-resident tax rates will be increased from 1 July 2012
- A range of CGT changes were announced, including removal of the CGT discount for non-residents, and integrity changes to scrip-for-scrip rollover
- All the dependent offsets will be amalgamated into one tax offset and their availability restricted.

More information on the tax and related announcements is also contained in a number of Budget press releases - see the Treasurer's website and the Assistant Treasurer's website.
Where to get Budget documents

The 2012-13 Budget Papers are available on the Federal Parliament Budget 2012-13 website.

[641] Govt outlines its 10-year "tax reform roadmap"

In the Budget, the Government released details of what it called its "tax reform roadmap" which it said builds on the work already done by the Henry Review and the Government's response, and the 2011 Tax Forum. The Government said the road map shows the directions its reforms will take over the next 10 years to improve the tax system.

The Government said its tax reform agenda "is to build a stronger economy and a fairer, simpler tax system". While the Government's Tax Reform Road Map document largely recounted many of the changes it has announced or introduced, the Government said it is reducing disincentives for business to invest in long life infrastructure. The Government said it recognises the long horizon for infrastructure projects of national significance, and will introduce an uplift allowance so that the value of tax losses is preserved over time. It will also exempt these tax losses from the continuity of ownership test and the same business test.

The Government said it had a number of "aspirational" tax reform objectives including:

- Further increasing the tax-free threshold to $21,000
- Reducing interest withholding tax paid by financial institutions to zero.

Source: Tax Reform Road Map booklet, 8 May 2012

[642] Government climbs out of the red with 2012-13 Budget, but company tax cut axed - by Reuters News

The Government's 2012-13 Budget delivered its promised surplus budget, scrapping planned tax breaks but offering more cash to its traditional supporters to deflect attention from scandals that threaten Prime Minister Julia Gillard's grip on power.

Treasurer Wayne Swan said the budget would deliver a small $1.5bn surplus in the year to 30 June 2013, thanks largely to cuts in spending on defence and foreign aid and abandoning planned tax cuts for companies and savers.

Small surpluses were also forecast for the following 3 years, restoring budget finances after a 4 straight years of deficit to pay for stimulus which helped Australia avoid recession after the 2008 global financial crisis. "The deficit years of the global recession are behind us. The surplus years are here," Swan said in budget speech to Parliament.

A voter backlash against austerity measures in Europe saw voters in Greece and France abandon ruling parties at recent elections, but Gillard's unpopular government sought to avoid anger among its Labor Party heartland by announcing a raft of new cash payments to the low-paid and those on welfare.

Economists have questioned whether a surplus was needed when Australia's central bank has just cut interest rates, but Swan said the fiscal tightening would protect Australia against global turbulence, preserve its AAA credit rating and give the central bank room for further rate cuts. "A surplus provides our best defence against dramatic changes in the global economy. A moderate recovery in the US still has a long and difficult road ahead, and Europe continues to cast a shadow over the global outlook," Swan said.

Australia's economy has weathered the global downturn better than most other developed nations, as strong demand from China powered an ongoing resources boom.

Swan said business would invest a record $120bn in resource projects in 2012-13, with more than $450bn of resources investments in the pipeline and with more than half already committed or under construction.

The surplus for 2012-13 comes after a blowout in the current year's 2011-12 deficit to $44.4bn from November's previous forecast of $37.1bn.

Swan forecast the economy to grow by 3.25% in the coming financial year, unchanged from the previous forecast, while the unemployment rate would rise marginally to 5.5% from the current 5.2%, well below levels in the United States and Europe.

The Treasurer said Australia's net debt would peak at 9.6% of gross domestic product in the current financial year, well below levels of around 70% in the euro area and over 70% in the United States and Britain, before falling marginally to 9.2% of GDP in 2012-13.

Budget pain

Much of the savings in the Budget come from business and defence, giving Swan room to divert spending to benefits low income families and into new cash payments for families of school children.

The Government has scrapped a planned one-percentage point cut in the company tax rate (see para [657] of this *Bulletin*), which was unlikely to pass through parliament, saving $4.7bn over 4 years.

Delays to major defence procurements, including an already announced 2-year delay in orders for the new Lockheed Martin F-35 Joint Strike Fighter, will also save $5.4bn over 4 years.

The Government will also delay by one year a promised increase in its foreign aid budget to 0.5% of gross national income (GNI), meaning the target will now be reached in 2016-17, saving $2.9bn over 4 years.

Swan will also save almost $1.5bn over 4 years by cutting tax breaks for high income earners on contributions into retirement funds (see para [681] of this *Bulletin*), and will save $1bn by winding back living away from home tax breaks (see para [660] of this *Bulletin*).

However, resource companies - facing new mining and carbon taxes from July this year - have been spared more tax pain. No changes were made to diesel fuel tax rebates which the industry feared would cost miners an extra $2bn a year if abolished.

Government poll slump

The forecast budget surplus will come ahead of elections due in the second half of 2013, helping Gillard to bolster her image as a competent economic manager at a time when opinion polls show government support near record lows around 27%.

Gillard holds a flimsy one-seat majority in parliament which relies upon a lawmaker who has been expelled from the party and who is under police investigation for suspected misuse of union funds to pay for prostitutes and lavish entertainment.

The member of Parliament, Craig Thomson, has denied any wrongdoing, but the Opposition is demanding Gillard no longer accept his vote in a move which could see the Government lose its majority and force an early election.

The Labor Government under former leader Kevin Rudd came to power in 2007, promising conservative economic management, but promises to deliver budget surpluses were derailed by the global financial crisis. (*Written by James Grubel; Editing by Terry Hayes*.)

PERSONAL TAXATION

[643] Personal tax rates - no changes to already legislated resident rates to apply from 1 July 2012

The Government did not make any changes to the currently legislated tax rates for residents that are to apply from 1 July 2012 - these were legislated in the package of carbon tax Bills that were passed and received Royal Assent in 2011. Note that the flood levy is also scheduled to cease on 30 June 2012.

The ***Clean Energy (Income Tax Rates Amendments) Act 2011*** has amended the *Income Tax Rates Act 1986* to deliver 2 rounds of tax cuts through increases in the tax-free threshold and corresponding adjustments to statutory tax rates and thresholds - the first, from 1 July 2012 and, the second, from 1 July 2015:

- from 1 July 2012, the tax-free threshold will be increased to $18,200, and the first 2 marginal tax rates will be increased from 15% to 19% and from 30% to 32.5%, respectively; and
- from 1 July 2015, the tax-free threshold will be $19,400, and the second marginal tax rate will be increased from 32.5% to 33%.

The personal income tax rates and thresholds are summarised for resident taxpayers in the table below:

Personal income tax rates and thresholds						
	2011-12		***2012-13***		***2015-16***	
	Threshold	***Rate***	***Threshold***	***Rate***	***Threshold***	***Rate***
1st rate	$6,001	15.0%	$18,201	19.0%	$19,401	19.0%
2nd rate	$37,001	30.0%	$37,001	32.5%	$37,001	33.0%
3rd rate	$80,001	37.0%	$80,001	37.0%	$80,001	37.0%
4th rate	$180,001	45.0%	$180,001	45.0%	$180,001	45.0%

For the 2012-13 year, the rates for resident individuals (excluding the 1.5% Medicare levy) are as follows:

2012-13 income year	
Taxable income $	**Tax payable $**
0 - 18,200	Nil
18,201 - 37,000	Nil + 19% of excess over 18,200
37,001 - 80,000	3,572 + 32.5% of excess over 37,000
80,001 - 180,000	17,547 + 37% of excess over 80,000
180,001+	54,547 + 45% of excess over $180,000

Note there are also changes concerning individuals and trustees and access to a tax-free threshold for those who are residents for only part of a year. From 1 July 2012, part-year residents and trustees will be able to access a tax-free threshold of at least $13,464. Their access to the remaining $4,736 of the full tax-free threshold will be pro-rated. From 1 July 2015, part-year residents and trustees will be able to access a tax-free threshold of at least $14,664. Their access to the remaining $4,736 of the full tax-free threshold will be pro-rated.
Low income tax offset

The ***Clean Energy (Tax Laws Amendments) Act 2011*** has amended the ITAA 1936 to adjust the operation of the low-income tax offset (LITO):

- From 1 July 2012, individuals will be entitled to receive the LITO if their taxable income is below $66,667. The maximum value of the LITO will be reduced from $1,500 to $445 and will be phased out at the rate of 1.5 cents for every dollar of taxable income over $37,000. Together with the other changes, this will mean low-income earners will have an effective tax-free threshold of $20,542
- From 1 July 2015, individuals will be entitled to receive the LITO if their taxable income is below $67,000. The maximum value of the LITO will be reduced to $300 and will be phased out at the rate of 1 cent for every dollar of taxable income over $37,000. Together with the other changes, this will mean low-income earners will have an effective tax-free threshold of $20,979.

The changes to the LITO are summarised in the table below:

Low income tax offset			
	2011-12	***From 1 July 2012***	***From 1 July 2015***
Amount	$1,500	$445	$300
Lower withdrawal limit	$30,000	$37,000	$37,000
Upper withdrawal limit	$67,500	$66,667	$67,000
Withdrawal rate	4.0%	1.5%	1.0%

Medicare levy

Amendments to the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge-Fringe Benefits) Act 1999* will increase the Medicare levy low-income thresholds and the associated phase-in limits. These changes will apply from the 2012-13 income year ie from 1 July 2012.

The Medicare levy low-income threshold for individuals entitled to an offset under s 160AAAA of the ITAA 1936 will be increased from $30,685 to $32,279. This threshold will apply to both seniors and pensioners entitled to the new seniors and pensioners tax offset (SAPTO) - see below. The low-income threshold amount for a single individual with no dependants will be increased from $18,839 to $20,542.

The Medicare levy family income threshold for individuals with a spouse and/or dependants who are entitled to an offset under s 160AAAA of the ITAA 1936 will be increased from $44,500 to $46,000. This threshold will apply for seniors and pensioners eligible for the new SAPTO.

The individual low-income threshold amount in the Medicare levy surcharge provisions will be increased from $18,839 to $20,542. As a result, taxpayers with income for surcharge purposes below $20,542 will not be liable to pay the Medicare levy surcharge on any taxable income and amount subject to family trust distribution tax they have received in the income year.

[***Thomson Reuters note***: The Government said the amendments would roll most of the LITO into the statutory tax rates and thresholds, "delivering tax cuts for taxpayers earning less than $80,000 per year". When introducing the Bills on 13 September 2011, the Treasurer said that under the changes, "all taxpayers under $80,000 will pay less tax". He said the Bills will mean that all taxpayers with taxable income up to $80,000 will get a tax cut from 1 July 2012 and again from 1 July 2015. Therefore, taxpayers earning above $80,000pa will not get tax cuts.]
SAPTO: New tax offset combines SATO and pensioner offsets

The ITAA 1936 has also been amended to merge the pensioner tax offset with the senior Australians tax offset (SATO), creating a new seniors and pensioners tax offset (SAPTO). From 1 July 2012, the pensioner tax offset will no longer be available and all individuals previously eligible for the pensioner tax offset will be eligible for the SATO, which will be known as the seniors and pensioners tax offset (SAPTO).

Currently, the maximum amounts of SATO are: $2,230 for a single; $1,602 for a member of a couple not separated by illness; and $2,040 for a member of a couple separated by illness.

Recipients of "social security pensions" and "service pensions" under the *Social Security Act 1991* and the *Veterans Entitlements Act 1986*, as well as recipients of limited other benefits largely payable to pension recipients, will be eligible for the SAPTO so long as the individual is not in jail for the whole year. This accords with the requirements for the former SATO. Only benefits available to individuals fitting the description of pensioner are to entitle the individual to an amount of SAPTO.

A person entitled to both the SAPTO and the beneficiary tax offset in an income year will be able to claim one, *but not both*, of the offsets if they are of the same value, or the offset of the greater value if they are not the same.

In addition, the *Medicare Levy Act 1986* has been amended to extend the income threshold at which recipients of the SATO are exempt from the Medicare levy to all recipients of the new SAPTO. From 1 July 2012, individuals exempt from the Medicare levy up to the income threshold applying to recipients of the pensioner tax offset will be exempt from the Medicare levy up to the income threshold applying to individuals entitled to the SAPTO (being the income threshold that formerly applied to individuals entitled to the SATO).

[644] Non-resident tax rates to change from 1 July 2012

The Government announced that it will adjust the personal income tax rates and thresholds that apply to non-residents' Australian income. From 1 July 2012, the first 2 marginal tax rate thresholds will be merged into a single threshold. The marginal rate for this threshold will align with the second marginal tax rate for residents (32.5%) and will apply to all taxable income below $80,000. From 1 July 2015, the same marginal rate will again rise from 32.5% to 33%.

The tax rates for non-residents that will apply for the 2012-13 and 2013-14 years are:

2012-13 and 2013-14 income years	
Taxable income $	**Tax payable $**
0 - 80,000	32.5%
80,001 - 180,000	26,000 + 37% of excess over 80,000
180,001+	63,000 + 45% of excess over $180,000

The tax rates for non-residents that will apply for the 2014-15 income year (ie from 1 July 2015) are:

2014-15 and later income years	
Taxable income $	**Tax payable $**
0 - 80,000	33%
80,001 - 180,000	26,400 + 37% of excess over 80,000
180,001+	63,400 + 45% of excess over $180,000

[645] Standard tax deduction gets the chop

The Government announced that it ***would not proceed*** with the 2010-11 Budget announcement to allow a standard tax deduction for work-related expenses and the cost of managing tax affairs which was due to commence on 1 July 2013. [**Thomson Reuters note**: In its MYEFO statement released on 29 November 2011, the Government deferred the start date of the standard deduction by 12 months until 1 July 2013.]

The Government is pursuing other simplification measures such as tripling the tax-free threshold to $18,200 from 1 July 2012. The ATO is also continuing to make it easier for people to complete their tax return through improvements in pre-filling.
The Government says this will provide savings to the Budget of $2bn over the forward estimates period.

Source: Budget Paper No 2 [p 36]

[646] Discount for interest income not to proceed

The Government announced that it will not proceed with the 2010-11 Budget announcement for a 50% discount for interest income which was due to commence on 1 July 2013.

The Government said its public consultation process involving key sector groups, industry participants and consumer groups "revealed concerns with the complexity involved in calculating the discount and its overall effectiveness". Based on this feedback from industry and stakeholders, the Government decided not to proceed with this measure.

The Government expects the discontinuance of the discount will provide savings to the Budget of $923.5m over the forward estimates period.

Source: Budget Paper No 2 [p 35]

[647] No strings Schoolkids Bonus cash payment to replace Education Tax Offset

On 6 May 2012, in the lead-up to the Budget, the Prime Minister announced that the Government would make a new no-strings cash payment, called the Schoolkids Bonus, to certain families with children at school. The announcement was confirmed in the 2012 Budget papers. It will apply from 1 January 2013, and each year, families will receive the Schoolkids Bonus worth:

- $410 for each child in primary school
- $820 for each child in high school.

The new automatic payment will replace the Education Tax Refund (or offset) from 1 January 2013. Under the existing system, the PM said 1 million families were not claiming what they were entitled to - either claiming less than the full amount, or claiming nothing at all. That's 80% of eligible families, she said.

According to the Prime Minister, because the payment is automatic and upfront, it means:

- Parents don't need to keep receipts - it's a guaranteed payment.
- Parents will receive the full amount every time, so families won't miss out if they lose receipts.
- Parents don't have to pay out of their own pocket, then wait months to get paid back through the tax system - the payment will be paid upfront, twice a year (in January and July each year), before the start of Term 1 and Term 3
- No paperwork is required.

Thomson Reuters confirmed with Treasury that the Schoolkids Bonus will not be a taxable payment.

In the same way as the Education Tax Refund, the Schoolkids Bonus will be available to families receiving Family Tax Benefit Part A plus young people in school receiving Youth Allowance and some other income support and veterans' payments.

As part of the transition to the new Schoolkids Bonus, the Education Tax Refund for 2011-12 will be paid out in full to all eligible families as a lump sum payment in June 2012. The PM said this means families will receive their full Education Tax Refund entitlement ahead of tax time - so parents won't have to worry about keeping receipts or making claims when they do their tax this year.

Legislation to enable these changes is proposed to be introduced into Parliament in the Parliamentary sitting week 8-10 May 2012.

Source: Prime Minister's press release, 6 May 2012; Budget Paper No 2 [p 146]; Treasurer's press release, 8 May 2012
Thomson Reuters comment

The Education Tax Refund was aimed specifically at education costs incurred eg laptop computers, printers, home internet connections, school textbooks, study guides, and school uniforms. However, it did not cover expenses such as school fees, cost of musical equipment, library book fees, building levies, school subject levies, or school photos. The proposed new Schoolkids Bonus, despite its name, can be spent on anything, whether education costs or not.

From a taxation point of view, perhaps the announcement can be viewed as a very small step in tax simplification! The tax system has too often been used for all sorts of purposes that are not directly tax related, and this has only added to its complexity. Removing things like the Education Tax Refund from administration through the tax system can only help reduce that complexity.

Looking at it from another angle, perhaps ending the Education Tax Refund was tacit acknowledgement that around 1 million families found it too difficult to deal with the tax system in claiming the Refund. Receipts were required to be kept, some expenses qualified but some did not, apportionment was required where a person and their spouse or partner both qualified for the refund, the offset was indexed annually (meaning different limits applied each year), and complications arose where there was a shared care arrangement with the children concerned. Although it was meant to be a targeted education expenses refund measure, the complexities of claiming it may have proved too great for many. Making payments of any kind through the tax system only added to its complexity.

[648] Limit on ETP offset for "golden handshakes"

The Government will limit the availability of the employment termination payment (ETP) tax offset.

At present, the ETP tax offset ensures that ETPs are taxed at a maximum rate of 15% for those over preservation age and 30% for those under preservation age, up to an indexed cap ($165,000 in 2011-12 and $175,000 in 2012-13).

From 1 July 2012, only that part of an affected ETP, such as a "golden handshake", that takes a person's total annual taxable income (including the ETP) to no more than $180,000 will receive the ETP tax offset. Amounts above this whole of income cap will be taxed at marginal rates.

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

Source: Budget Paper No 2 [p 33]; Treasurer's press release

[649] Dependant offsets to be consolidated

The various dependant tax offsets will be consolidated into a single, streamlined non-refundable offset from 1 July 2012. The new offset will only be available to taxpayers who maintain a dependant who is genuinely unable to work due to carer obligation or disability.

The offsets to be consolidated are the:

- Invalid spouse and carer spouse offsets
- Housekeeper (with or without child) offset
- Child-housekeeper (with or without child) offset
- Invalid relative offset
- Parent/parent-in-law offset.

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

Taxpayers who are currently eligible to claim more than one offset amount in respect of multiple dependants who are genuinely unable to work will still be able to do so.

This announcement will implement one of the recommendations of the 2010 Henry Tax System Review.

Source: Budget Paper No 2 [p 35]; Treasurer's press release, *8 May 2012*

[650] Medicare levy thresholds increased for 2011-12

From the 2011-12 income year, the Medicare levy low-income thresholds will be increased for singles to $19,404 (up from $18,839 for 2010-11) and to $32,743 for those who are members of a family (up from $31,789 for 2010-11).

The additional amount of threshold for each dependent child or student will also be increased to $3,007 (up from $2,919).

The Medicare levy low-income threshold for pensioners below Age Pension age will also be increased from 1 July 2011 to $30,451 (up from $30,439). This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy while they do not have an income tax liability.
Date of effect

The measure will apply from 1 July 2011.
Thomson Reuters comment

Note that, from 2012-13, the Medicare low income threshold for individuals has already been legislated to increase from $19,404 to $20,542 for singles, while the threshold for senior Australians has also been increased from $30,685 to $32,279 (or $46,000 for couples), as part of the Government's carbon tax measures: see para [643] of this *Bulletin*. The $32,743 threshold for families will apply to both the 2011-12 and 2012-13 income years. In addition, the Medicare levy income threshold for Senior Australians ($32,279 for 2012-13) will apply to all recipients of the new seniors and pensioners tax offset (SAPTO). That is, the threshold for SAPTO will also apply to former recipients of the pensioner tax offset who will be merged into the SAPTO from 1 July 2012.

Source: Budget Paper No 2 [p 37]; Treasurer's press release, 8 May 2012

[651] Changes to Family Tax Benefit Part A

The Government announced 4 changes affecting the Family Tax Benefit (FTB) Part A.
Eligibility age

From 1 January 2013, the Government will limit eligibility for FTB Part A to young people under 18 years of age or, where a young person remains in secondary school, the end of the calendar year in which they turn 19.

Individuals who no longer qualify for FTB Part A may be eligible to receive Youth Allowance subject to usual eligibility requirements.
Rate increase

The Government will increase the maximum payment rate of FTB Part A by $300 pa for families with one child and $600 pa for families with 2 or more children. For families receiving the base rate of FTB Part A, the increase will be $100 pa for families with one child and $200 pa for families with 2 or more children.

The increased rate will come into effect from 1 July 2013.
Portability of payments

As part of the measures to reduce the period of time that people who travel overseas will continue to be paid, the FTB Part A payments above the base rate will be reduced to the base rate after 6 weeks of a temporary absence from Australia (down from 13 weeks). In addition, the current requirement that the portability period is not reset until the person has returned to Australia for a period of 13 weeks will be reduced to 6 weeks.

The changes will take effect from 1 January 2013.
Streamlining income reporting processes

The Government will provide $27.2m to streamline income reporting processes for recipients of FTB (and for holders of the Commonwealth Seniors Health Card) who are no longer required to lodge a tax return as a result of the Government's tripling of the tax free threshold from 1 July 2012. This will allow people in the $6,000 to $18,200 income range to update their incomes online, over the phone or in person with the Department of Human Services, so that their FTB entitlement can be reconciled or CSHC eligibility determined.

Source: Budget Paper No 2 [p 139], [p 144], [p 148], [p 155]

[652] New Deductible Gift Recipient announced

The Budget announced that gifts of $2 or more to One Laptop Per Child Australia will be tax deductible. This will apply to gifts made after 30 June 2012 and before 1 July 2016.

Source: Budget Paper No 2 [p 38]

[653] Mature age worker offset to be phased out

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

To help older Australians who wish to continue in work, the Government will provide a Jobs Bonus of $1,000 to 10,000 employers who recruit and retain a worker aged 50 or over for 3 months.

This reform implements another recommendation of the 2010 Henry Tax System Review.

Source: Budget Paper No 2 [p 37]; Treasurer's press release

[654] Means testing medical expenses offset

The medical expenses tax offset will be means tested from 1 July 2012.

The Government announced that, for people with adjusted taxable income above the Medicare levy surcharge thresholds ($84,000 for singles and $168,000 for couples or families in 2012-13), the threshold above which a taxpayer may claim the medical expenses offset will be increased to $5,000 (indexed annually thereafter). In addition, the rate of reimbursement will be reduced to 10% for eligible out-of-pocket expenses incurred. People with income below the surcharge thresholds will be unaffected.
Thomson Reuters comment

Currently, the medical expenses tax offset or rebate for 2010-11 is 20% of the excess over $2,000. The threshold is indexed annually to the CPI under s 159HA of the ITAA 1936 and for 2011-12 ie from 1 July 2011 is 20% of the excess over $2,060. The rebate threshold was increased from $1,500 to $2,000 in the 2010 Budget and applied from 1 July 2010.

Further tightening of the offset was probably not surprising, although when taken together with other health-related changes such as the income test on the private health insurance rebate (not to mention the increase in private health insurance rates themselves), provides something of a double-hit on those with high medical expenses.
Increasing the threshold was one of those slow moving rather obvious targets for any expenditure review committee, so it's not surprising it has been raised again.

Source: Budget Paper No 2 [p 34]; Treasurer's press release

[655] Further exemptions from the flood and cyclone levy

The Budget Papers confirmed the Treasurer's announcement on 6 May 2012 that people who suffered flood damage in 2012 will also be made exempt from the flood and cyclone levy that applies for the 2011-12 financial year only. He said that earlier this year, more flooding devastated parts of western Queensland and northern NSW. Those affected by the disasters in 2011 are already exempt from the levy.

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

The Government will also extend the exemptions from the temporary flood levy to include those people who have been affected by a natural disaster in 2011-12. The classes of individuals to whom the extension apply are those who, in 2011-12:

- Are eligible for an AGDRP for a disaster event
- Are directly affected by a Natural Disaster Relief and Recovery Arrangements (NDRRA) declared disaster and would have met the AGDRP criteria; or
- Are a New Zealand non protected special category visa holder who received an ex gratia payment from the Australian Government in relation to a disaster that occurred.

Further information on which areas are an Australian Government Disaster Recovery Payment (AGDRP) declared or NDRRA affected can be found on the Disaster Assist website.

The flood and cyclone levy is still scheduled to cease on 30 June 2012.

Source:Treasurer's press release No 032, 6 May 2012; Budget Paper No 2 [p 45]

[656] Seasonal labour mobility program - non-residents to be taxed at flat rate

Eligible income earned by non-resident individuals participating in the Seasonal Labour Mobility Program will be taxed a flat rate of 15% from 1 July 2012. The 15% rate will be administered as a final withholding tax.

In addition, participants in the Program will no longer be required to pay the Medicare levy.

This measure replaces the arrangements for the Pacific Seasonal Worker Pilot Scheme, which concludes on 30 June 2012. The new arrangements will reduce compliance costs for seasonal workers participating in the Program and simplify administration for the Tax Office by removing the requirement to lodge a tax return.

Source: Budget Paper No 2 [p 38]

BUSINESS TAXATION

[657] Company tax cut shelved

The Treasurer has announced that the proposed reduction in the company tax rate to 29% will *not* proceed. The reason given by the Treasurer was that it had become clear that the proposed tax rate cut would not be approved by Parliament.

The Treasurer added that the savings from not proceeding with the company tax cut will be used to fund other measures, including the loss carry-back arrangement for companies.

Source: Budget Paper No 2 [p 22]

[658] Businesses to be allowed to carry-back losses

The Budget confirmed the Treasurer's announcement on 6 May 2012 that the Government would allow businesses to carry-back losses. Mr Swan said the proposed changes would "allow businesses to 'carry back' their losses, to offset past profits and get a refund of tax previously paid on that profit". The carry-back will be available to companies and entities that are taxed like companies.

As part of the loss carry-back, from 1 July 2012, companies will be able to carry back up to $1m worth of losses to get a refund of tax paid in the previous year. From 1 July 2013, companies will be able to carry back up to $1m worth of losses against tax paid up to 2 years earlier.

The Treasurer said loss carry-back "received strong and widespread support" at the Tax Forum last year and was developed further in close consultation with business representatives and tax experts through the Business Tax Working Group, which recommended the measure in its Final Report on the Tax Treatment of Losses.

The Treasurer said the Government would release a Discussion Paper about the introduction of loss carry-back shortly.

Source:Treasurer's press release 031, 6 May 2012

Thomson Reuters observation

The Business Tax Working Group recommended loss carry-back be phased in from 2013-14 ie 1 July 2013, so the Government's announcement appears to bring that forward by one year. No other details were given in the Treasurer's 6 May announcement, nor the Budget papers, so it can only be presumed that the Government is implementing the Working Group's announcement eg loss carry-back provided through a refundable tax offset, and carry-back limited to companies only. Although it must be noted that the Working Group's final report was heavily qualified and it said it did have time to examine the issue fully. It said it had not had an opportunity to explore the relative net-benefit of loss carry back compared with other business tax reforms such as a cut to the corporate tax rate. The Working Group also said it did not have time to fully consider the benefits and risks of any savings measures to fund tax loss reform. Presumably the discussion paper will spell out the details of the reform proposals.

If loss carry-back is limited to companies, there is concern that many small businesses would miss out as they are not incorporated. Many operate as sole traders, partnerships or trusts.

Also, if carry-back is to apply from 1 July 2012, there is very little time for release of a Discussion Paper and the passage of legislation before then.

In warning of dangers in rushing the measure, The Institute of Chartered Accountants' General Manager - Leadership and Quality, Yasser El-Ansary, said there needed to be an assessment of the value that would be delivered in moving towards a loss carry-back scheme before any final decisions were made. While backing the Working Group's losses report, the Institute recommended that the Government resist the temptation to implement the proposed reforms in the formulation of its 2012-13 Budget.

Mr El-Ansary said the business community needed time to complete a proper cost-benefit analysis of what they were being asked to give up and what they are getting in return. Small businesses need time to consider whether a loss carry-back regime that only benefits 20% of small corporate entities is worthwhile, he said. "Releasing the report for further public debate is the right thing to do, rather than making decisions that don't have the benefit of a full and transparent process around the important issues," El-Ansary said.

[659] The accountants' exemption - no news is, well, no news

A significant outstanding piece of the Future of Financial Advice (FoFA) reforms - ***details of the replacement of the accountants' exemption*** - was NOT announced in the Budget. As noted by The Institute of Chartered

Accountants and CPA Australia in a recent full-page piece in the *Australian Financial Review*, "the silence is deafening" on this important issue. Perhaps the deferral of mandatory compliance with the FoFA rules to 1 July 2013 has persuaded the Government that the matter is not urgent. The accounting bodies however, do not agree.

The "accountants' exemption" was introduced in 2004 as a component of the *Financial Services Reform Act 2001* package. As part of those reforms, accountants were provided with a range of exemptions from having to obtain an Australian Financial Services License (AFSL) so they could continue providing their traditional accounting services such as tax and compliance. In addition, a self-managed super fund (SMSF) exemption was provided for recognised accountants (members of the Institute of Chartered Accountants in Australia, CPA Australia and the Institute of Public Accountants) to enable them to advise on the establishment, administration and closure of SMSFs without requiring to hold or operate under an AFSL. An AFS licence is not required to provide factual information on the various superannuation options (eg industry funds, retail funds, SMSFs).

On 26 April 2010, the Government announced that the "accountants' exemption" provided under reg 7.1.29A of the *Corporations Regulations 2001* would be withdrawn. An accountant cannot, without having an AFS licence, make specific product recommendations ie cannot give advice on the acquisition or disposal of specific financial products or classes of products. The Government said an appropriate transitional period will be provided.

While mandatory application of the FoFA reforms will apply from 1 July 2013, a date for the withdrawal of the exemption has not been given.
In response to the withdrawal of the exemption, a number of Australian Financial Services Licensees have been setting up restricted authorisations solely for accountants.

When releasing the first tranche of draft FoFA legislation on 29 August 2011, then Assistant Treasurer Mr Shorten said he would announce his decision on the replacement of the accountants' exemption when the second tranche of draft legislation was released. That did not happen. Speaking in response to concerns expressed at the 2012 SPAA conference in Sydney on 17 February 2012, the Minister for Financial Services said the exemption "would be dealt with in the next 2 weeks". Mr Shorten said the Government wanted the exemption to be cost effective and simple and he said the Government "will not get it wrong" and will discuss the issue with all relevant parties. No announcement about the exemption has been forthcoming since Mr Shorten's comments.

The Parliamentary Secretary to the Treasurer, Mr Ripoll, said in a speech to the IPA on 11 April 2012 that Treasury and ASIC were working closely with the accounting bodies in developing the alternative exemption. Mr Ripoll said that while the details of the measure are a matter for the Minister for Financial Services, "I can assure you that the Government is conscious of the concerns of the professional accounting bodies, and is working hard to ensure a workable transition for the profession to the new arrangements".

According to CPA Australia, reg 7.1.29A was the result of the accounting profession's continued efforts to lobby government, as it was the profession's belief that providing advice on superannuation structures should not have been regulated under the *Financial Services Reform Act 2001*.

Shadow Assistant Treasurer Mathias Cormann said it was time Mr Shorten revealed his intentions about the exemption. Senator Cormann said he should heed the advice he has received and make sure that any changes to accountants' licensing requirements will not impose unnecessary additional red tape and costs for small business professional accountants.

Senator Cormann said the Government must also ensure that any changes:

- Do not restrict or limit the availability and accessibility of professional, independent advice for small business clients considering establishing or closing an SMSF
- Do not impact on the professional independence of Australian accountants who are world class and are trusted advisers for millions of Australian individuals and small businesses
- Enable accountants to provide advice on a broad range of financial issues to their clients, including advice about SMSF structures.

The development of the alternate exemption is obviously taking longer than expected. There has been concern that possible changes to the accountants' exemption under the FoFA reforms could limit the ability of accountants to advise their clients on financial matters. The Government's announcement is keenly awaited.

[660] LAFHA changes announced

The Government announced that it would further reform the tax concession for living away from home allowances (LAFHA) and benefits by "better targeting it at people who are legitimately maintaining a second home in addition to their actual home for an initial period". The changes would:

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

The Government believes these further reforms "will stop employers from being able to give the tax concession to employees who aren't maintaining a second home, or are maintaining 2 homes indefinitely".

Exceptions

The proposed changes are designed *not to affect*:

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

Date of effect

The changes will apply from 1 July 2012 for arrangements entered into after 7:30pm (AEST) on 8 May 2012, and from 1 July 2014 for arrangements entered into prior to that time.

The Government said it would consult with tax experts and employers on the technical detail of the legislation.

Source: Budget Paper No 2 [p 24]; Treasurer's press release, 8 May 2012

Changes not welcomed

The proposed changes will impose a significant cost burden on both business owners and their employees, according to Grant Thornton's FBT specialist Elizabeth Lucas. Ms Lucas said the changes would exclude visitors to Australia on temporary visas from any LAFH tax concessions except fly-in fly-out arrangements. She said the exclusion of temporary visa holders from the concession "is supposed to put them on an even playing field with Australian workers. But we have a number of clients who can't find the specialist people they need in Australia. When you're trying to attract a highly skilled person from overseas, it's net pay that counts, so these changes would mean a much higher cost to business. It's even causing some of our clients to look at moving parts of their businesses offshore".

Ms Lucas said the one-year time limit for LAFH concessions is out of step with the reality of modern life and commercial arrangements. She said "In our experience, businesses moving people interstate or overseas often need the person to stay for at least 2 years to maximise the benefit of the high cost of the secondment. Whilst the certainty of a time limit is welcome, one year is inadequate, Ms Lucas said.

[661] FBT - airline transport benefits - valuation method to change

The method of determining the taxable value of airline transport fringe benefits will be changed from stand-by value to market value.

An airline transport fringe benefit may arise when an employee of an airline or travel agent is provided with free or discounted travel on a stand-by basis. The taxable value is currently the stand-by value of the benefit less any employee contribution. Stand-by value will be replaced by market value as the concept of stand-by travel is no longer commercially relevant (airlines now use discounted pricing). The taxable value will continue to be reduced by any contribution by the employee.

Date of effect

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

Source: Budget Paper No 2 [p 25]; Treasurer's press release, 8 May 2012

[662] Bad debts - related party financing deduction denial

The Government will ensure a more consistent tax treatment for bad debts between related parties irrespective of whether they are members of a tax consolidated group.
This will be achieved by denying a tax deduction for a bad debt written off where the debtor is a related party not in the same tax consolidated group. The corresponding gain to the debtor will also not be taxed.

Date of effect

This measure will apply from 7:30pm (AEST) on 8 May 2012.

Source: Budget Paper No 2 [p 18]

[663] Extra funding for Project Wickenby

The Government announced that it will provide $76.8m over 3 years to the Tax Office and other agencies for Project Wickenby-related activities. It is intended the funding will allow the Project Wickenby taskforce agencies to complete existing project work and transition the work to "business as usual" activity by 30 June 2015.

Date of effect

The funding is for 3 years commencing 1 July 2012.

Source: Budget Paper No 2 [p 43]

[664] Minor MRRT tax law amendments

The Government announced that it would make minor amendments to the tax laws to correct technical defects, remove anomalies and address unintended outcomes in the tax legislation. The amendments will address minor issues identified with the Minerals Resource Rent Tax legislation, and will update an obsolete cross-reference in the tax laws.

No details were given in the Budget announcement.

Source: Budget Paper No 2 [p 44]

[665] Tier 2 capital instruments - certain instruments to be treated as debt

The Government announced that it will provide $106m over 4 years to the ATO to improve the management of outstanding taxation debts and superannuation guarantee charge.

The Government said the funding is designed "to allow the ATO to support a greater range of taxpayers in meeting their reporting and payment obligations through contacting them earlier and by providing more targeted assistance".

The funding is estimated to have a nil revenue impact in fiscal balance terms over 4 years as it relates to the collection of outstanding tax debts that have already been recognised as revenue. The Government expects it will increase estimated cash receipts by $1.125bn over the forward estimates period, including a GST component of $391.4m that will be paid to the States and Territories.

Source: Budget Paper No 2 [p 44]

[666] More funds for ATO to manage outstanding tax debts

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Source: Budget Paper No 2 [p 44]

[667] Foreign currency regulations - minor amendments

The Government has announced that it will make minor technical amendments to the foreign currency provisions, so that the previously announced compliance cost savings measures operate appropriately.

Source: Budget Paper No 2 [p 45]

[668] Limited recourse debt to be clarified

The Government will clarify that limited recourse debt includes arrangements where the creditor's right to recover the debt is effectively limited to the financed asset or security provided.

This measure will ensure that tax deductions are not available for capital expenditure on assets that have been financed by limited recourse debt, to the extent that the taxpayer is not effectively at risk for the expenditure and does not make an economic loss.

Date of effect

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

Source: Budget Paper No 2 [p 31]

[669] Increase in MIT withholding rate

The Government has announced that the managed investment trust (MIT) final withholding tax rate will increase from 7.5% to 15%. \

This measure will return the withholding tax for MITs to the original level. The Treasurer said that the 15% rate is competitive with current rates applying in other countries, including the USA and Japan.

Date of effect

This measure will apply from 1 July 2013.

Source: Budget Paper No 2 [p 31]; Treasurer's press release

[670] Tax exemption for Clean Energy Finance Corporation

The Government will exempt the Clean Energy Finance Corporation from income tax, with effect from 1 July 2013.

Source: Budget Paper No 2 [p 22]

[671] Wine equalisation tax - integrity of the wine producer rebate

The Government will amend the wine producer rebate to ensure that wine producers will not be able to claim multiple rebates for the same quantity of wine, beyond the total amount of wine equalisation tax payable. In particular, this measure will protect the integrity of the rebate and address unintended policy outcomes arising where wine is subject to blending and/or further manufacture, which have been previously raised as concerns by the wine industry and the Australian National Audit Office.

Date of effect

This measure will apply to assessable dealings from 1 July 2012.

Source: Budget Paper No 2 [p 46]

[672] Tax Breaks for Green Buildings program not to proceed

The Government announced that it will not proceed with the Tax Breaks for Green Buildings program. The program would have driven significantly higher cost abatement than that delivered by the carbon price.

The Government estimates that the discontinuance of the program would increase revenue by $390m over the forward estimates period. Funding for the Department of Climate Change and Energy Efficiency will also be reduced by $15.2m over 5 years from 2011-12.

Source: Budget Paper No 2 [p 42]

Thomson Reuters comment

The Tax Breaks for Green Buildings program was announced as part of the Government's 2010 election campaign. It was originally due to start on 1 July 2011 but was then deferred to start on 1 July 2012. The program was due to run until 30 June 2015.

Under the program as proposed, businesses that undertook capital works to improve the energy efficiency of their existing buildings - from 2 stars or lower to 4 stars or higher - would have been able to apply for a one-off bonus tax deduction of 50% of the cost of the eligible assets or capital works. For example, a business that invested

$1m on assets or capital works to significantly improve the energy efficiency rating of its building, such as energy efficient lighting or air-conditioning systems, would have been eligible for a bonus tax deduction of $500,000.

The Tax Break would have covered specified expenditure which was incurred as part of a qualifying retrofit of an existing office building, hotel or shopping centre. The retrofit was to have been assessed by an accredited National Australian Built Environment Rating System (NABERS) assessor before and after the project.

[673] Luxury Car Tax threshold - no change

Prior to the Budget, there had been calls for an increase in the Luxury Car Tax (LCT) threshold. In these austere times where the Government was looking for Budget savings, it was not surprising that those calls fell on deaf ears - the Budget did not make any changes.

The LCT threshold is currently (for 2011-12) $75,375 for fuel-efficient cars and $57,466 for other cars. For LCT purposes, fuel-efficient cars are cars that have a fuel consumption of 7 litres per 100 kilometres or less. The $57,466 threshold has moved very little since 2004-05 when it was $57,009. A so-called "luxury car" is a car with a GST-inclusive value above the LCT threshold. Generally, the LCT rate for cars delivered or imported after 3 October 2008 is 33%.

Removal of CGT discount for non-residents

[674] Removal of CGT discount for non-residents

The Government will remove the 50% CGT discount for non-residents on capital gains *accrued* after 7.30pm (AEST) on 8 May 2012. The CGT discount will remain available for capital gains that *accrued* prior to this time where non-residents choose to obtain a market valuation of assets as at 8 May 2012.

Date of effect

The measure will apply to capital gains that accrue after 7.30pm (AEST) on 8 May 2012.

Source: Budget Paper No 2 [p 31]

[675] Integrity changes to scrip for scrip roll-over

The Government will amend the integrity provisions of the scrip for scrip roll-over to remove significant tax minimisation opportunities. The measure will ensure that taxpayers:

- Cannot avoid the scrip for scrip roll-over's integrity provisions by holding interests to acquire ownership rights, such as convertible preference shares, rather than the underlying shares
- Defer indefinitely the CGT liability that would have otherwise arisen under the integrity provisions for the on-sale of the target entity by the acquiring entity.

The measure will also strengthen the integrity provisions by:

- Broadening the scope of the rules that apply to intra-group debt to cover debts owed to group entities other than the head entity
- Removing the CGT exemption for the repayment of such debts as it undermines the effectiveness of the integrity provisions
- Ensuring that the integrity provisions apply appropriately to trusts.

Date of effect

These changes will have effect from 7.30pm (AEST) on 8 May 2012.

Source: Budget Paper No 2 [p 21]

[676] Application of scrip-for-scrip roll-over and SBC to trusts, super funds etc

The Government will make changes to the 2011-12 Budget measure in relation to the application of the scrip-for-scrip roll-over and small business concessions to trusts, superannuation funds and life insurance companies. In particular, the measure will ensure that the provisions concerning absolutely entitled beneficiaries, bankrupt individuals, security providers and companies in liquidation interact appropriately with the CGT provisions and with the connected entity test in the small business entity provisions.

This measure will also ensure that consequential impacts on the *Wine Equalisation Tax Act 1999* through the operation of the changes to the connected entity test will apply to wine producers.

Date of effect

The main changes will apply at the option of taxpayers from the 2008-09 income year and automatically from Royal Assent. The consequential amendments to the *Wine Equalisation Tax Act 1999* will apply from the first financial year after the amending legislation receives Royal Assent.

Source: Budget Paper No 2 [p 18]

[677] Revenue asset and trading stock roll-overs for interposing a company

The Government will broaden the revenue asset and trading stock roll-overs that apply to the exchange of interests in a company or unit trust for shares in another company. This measure ensures that these revenue asset and trading stock roll-overs will be available for all interests that qualify for the general conditions of each of the roll-overs, rather than only shares in consolidated groups. The measure also improves integrity by requiring that the replacement shares in the interposed company must maintain the character of the original revenue asset or trading stock asset that was exchanged.

Date of effect

These measures will apply from 7.30pm (AEST) on 8 May 2012.

Source: Budget Paper No 2 [p 19]

[678] Broadening relief for taxpayers affected by natural disasters

The Government will make changes to the previously announced measure that provides CGT relief for taxpayers affected by natural disasters. The change will ensure that taxpayers that are eligible for an automatic CGT exemption (such as the main residence exemption) are not prevented from choosing the same CGT treatment available to other taxpayers under the announced relief measure. It also allows taxpayers that participate in an eligible land swap program for natural disasters in relation to their main residence to treat the replacement land they receive under the program as their main residence.

Date of effect

This change, together with the original measure, will apply with effect from 1 July 2011.

Source: Budget Paper No 2 [pp 19-20]

[679] Changes to compensation payments and insurance policy exemption

The Government will make minor extensions to the CGT exemptions for certain compensation payments and insurance policies. This measure will disregard CGT consequences where a taxpayer receives compensation, damages or certain insurance proceeds indirectly through a trust. This will ensure that the taxpayer has the same CGT outcome as a taxpayer who receives such proceeds directly. It will also ensure that insurance policies owned by superannuation funds that were treated as being CGT exempt prior to the 2011-12 Budget changes to compensation payments and insurance policies continue to be CGT exempt.

Date of effect

The measures will apply with effect from the 2005-06 income year.

Source: Budget Paper No 2 [p 20]

[680] Minor changes to previously announced deceased estate amendments

The Government will make minor amendments to the 2011-12 Budget measure to ensure the proper functioning of the CGT provisions relating to deceased estates. In particular, the proposed changes:

- Reduce compliance costs involved with the integrity provisions by ensuring that the deceased's tax return does not need to be amended as the taxing point will be recognised by the entity transferring the asset;
- Modify application dates for two of the minor changes announced in the 2011-12 Budget to ensure that taxpayers are not disadvantaged
- Broaden the scope of the integrity provisions to also apply to assets passing via survivorship.

Date of effect

The changes will apply with effect from Royal Assent.

Source: Budget Paper No 2 [pp 20-21]

SUPERANNUATION

[681] Superannuation contributions tax to double to 30% for incomes above $300,000

From 1 July 2012, individuals with income greater than $300,000 will have the tax concession on their concessional contributions reduced from 30% to 15% (excluding the Medicare levy). This means that the tax rate on concessional contributions will effectively double from 15% to 30% for very high income earners from 1 July 2012.

Currently, the 15% flat tax on concessional contributions (paid by the receiving superannuation fund) provides high income earners with a significantly larger tax concession than those on lower marginal tax rates. The Minister for Financial Services and Superannuation, Mr Bill Shorten, said a small number of people on high incomes are getting a better tax deal out of super than millions on average incomes. The proposed reduction in the higher tax concession that is currently available for very high income earners on their concessional contributions will align it more closely with the concession received by average income earners, Mr Shorten said. However, there will still be an effective tax concession of 15% (up to the concessional contributions cap of $25,000) for these high income earners.

Income test

The definition of "income" for the purpose of this measure will include taxable income, concessional superannuation contributions (eg superannuation guarantee contributions and salary sacrificed contributions), adjusted fringe benefits, total net investment loss, target foreign income and tax-free government pensions and benefits, less child support.

If an individual's income (excluding their concessional contributions) is less than the $300,000 threshold, but the inclusion of their concessional contributions pushes them over the threshold, the reduced tax concession will only apply to the part of the contributions that are in excess of the threshold. For example, someone with income excluding their concessional contributions of $285,000, and concessional contributions of $20,000 (taking their total income to $305,000), would have the reduced tax concession only apply to $5,000 of their contributions.

Concessional contributions

Importantly, the reduced tax concession will not apply to concessional contributions which exceed the concessional contributions cap of $25,000 and are therefore subject to excess contributions tax (ECT). Excess concessional contributions are effectively taxed at the individual's top marginal tax rate and therefore do not receive a tax concession.

"Concessional contributions" for the purpose of this measure include all employer contributions (both superannuation guarantee and salary sacrifice contributions) and personal contributions for which a deduction has been claimed. For members of defined benefit funds (both funded and unfunded schemes), it will include all of their notional employer contributions.

No change to taxation of super fund earning

Mr Shorten said the 15% flat tax on earnings within superannuation (and tax exemption for assets supporting pension payments) will not be affected in any way by this reform. Rather, the proposed reform will only reduce the tax concession which very high income earners receive on their contributions into superannuation, Mr Shorten said.

The Minister said the proposed measure is expected to save $946m over the forward estimates and will affect 128,000 individuals in 2012-13.
Treasury will consult with the superannuation industry and other relevant stakeholders on further design and implementation details.

Date of effect

The measure will apply from 1 July 2012.

Thomson Reuters comment

Deborah Wixted, Executive Manager, FirstTech, Colonial First State, noted that taxpayers with income over $300,000 (who are currently making full use of $25,000 concessional cap) will pay an additional $3,750 in contributions tax from 1 July 2012 under this measure. Accordingly, such high income earners would need additional salary of $7,009 to make up for this loss, Ms Wixted said.

Precisely how (and from whom) the Government will collect this additional 15% tax on concessional contributions for very high income earners will be determined following consultation with the superannuation industry. No doubt the Government may consider reintroducing a superannuation surcharge tax regime to collect this additional contributions tax directly from the superannuation fund holding the contribution on behalf of the very high earner.

Source: Budget Paper No 2 [pp 41-42]; Minister for Financial Services and Superannuation press release, 8 May 2012

[682] Higher concessional contributions cap for over 50s deferred to 1 July 2014

The proposed higher concessional contributions cap for individuals aged 50 and over with superannuation balances below $500,000 will be deferred from 1 July 2012 to 1 July 2014. Accordingly, all taxpayers, regardless of age, will be subject to a concessional contributions cap of $25,000 for the 2012-13 and 2013-14 income years. In 2014-15, the general cap is expected to increase to $30,000 through indexation, and the higher cap would then commence at $55,000 for eligible taxpayers aged 50 and over.

The annual $50,000 concessional contributions cap for those aged 50 and over was due to revert to the lower general concessional contributions cap of $25,000 from 1 July 2012. However, in response to the Henry Report, the Government proposed to allow individuals aged 50 and over with total superannuation balances below $500,000 to continue making up to $50,000 in concessional contributions beyond the scheduled end of the transitional period on 30 June 2012. The higher cap for eligible persons over 50 will not be indexed but instead set at $25,000 more than the general concessional contributions cap.

In early 2012, the Government established a Superannuation Roundtable to consider (among other things) compliance cost issues in relation to the proposed $50,000 concessional contributions cap for those aged 50 and over with less than $500,000 in superannuation. The Minister for Financial Services and Superannuation, Mr Bill Shorten, said the superannuation industry has raised concerns in relation to the cost and complexity involved in administering the $500,000 threshold, and the difficulty some individuals may face in determining whether they are eligible for the higher cap.

Mr Shorten said that deferring the start date of the higher cap from 1 July 2012 to 1 July 2014 will allow implementation to occur in conjunction with changes to superannuation fund reporting and systems that will be occurring under the SuperStream reforms. In addition, Mr Shorten said that individuals will be able to more easily determine whether they are eligible for the higher cap from 1 July 2014, as the Tax Office is developing an online reporting facility that will provide access to comprehensive account balance information from early 2014.

Deferring the start date of the higher concessional contributions cap by 2 years is expected to save $1.46bn over the forward estimates.

Date of effect

This measure will apply from 1 July 2012.

Thomson Reuters comment

The deferral of the start date for this measure will have significant implications for salary sacrificing arrangements, deductions for personal contributions and transition to retirement (TTR) pension strategies. Taxpayers will need to review their strategies before 1 July 2012 when the concessional contributions cap for those aged 50 and over will drop from $50,000 to $25,000 for 2012-13 and 2013-14.

A taxpayer aged 50 or over on the top marginal tax rate who is currently making full use of the $50,000 concessional contributions cap will effectively pay an extra $7,875 in tax if she or he has to restrict concessional contributions to $25,000 from 1 July 2012, and take the remaining $25,000 in cash salary.

Source: Budget Paper No 2 [pp 40-41]; Minister for Financial Services and Superannuation press release, 8 May 2012

[683] SuperStream levy for APRA-regulated super funds

A temporary SuperStream levy will be imposed on APRA-regulated superannuation funds from 2012-13 to fund the cost of implementing the Government's SuperStream reforms. The proposed levy will be collected by APRA within the existing Superannuation Supervisory levy. As is normal practice, a discussion paper will be released shortly setting out how the levy will be apportioned between superannuation funds.

SuperStream is a package of reforms in response to the Cooper Review that will make the superannuation system easier to use for members, employers and funds. The changes are designed to improve the efficiency of the superannuation system through the better use of technology and by standardising data and payment requirements for contributions and rollovers. Under SuperStream:

- Fund members - will be able to easily look up and keep track of their superannuation, have low value inactive accounts consolidated automatically, be able to consolidate larger accounts easily, have their contributions and rollovers processed more quickly, and be able to more easily check if their superannuation contributions have been paid.

- Employers - standardised simplified administrative processes will apply when dealing with superannuation funds.
- Superannuation funds - standardised simplified administrative processes will apply when dealing with employers and other funds, greater use of TFN can be made to facilitate matching and consolidation of accounts, and electronic validation services from the Tax Office will help their administration and help ensure members are properly matched with their superannuation.

The additional SuperStream levy is expected to raise $121.5m in 2012-13, $111.1m in 2013-14, $83.1m in 2014-15, $69.3m in 2015-16, $41.2m in 2016-17 and $40.9m in 2017-18.

In order to realise the full benefits of SuperStream, the Government said up-front investment is required in information technology systems for key agencies such as the Tax Office. The Government will provide $467.1m over 7 years (including $41.2m in 2016-17 and $40.9m in 2017-18) to implement the SuperStream reforms that are part of the package of Stronger Super reforms.

Date of effect

The SuperStream levy will apply from 1 July 2012.

Previous announcement

Note that the proposed temporary SuperStream levy was foreshadowed by Government on 16 December 2010 in response to Cooper Review recommendation 10.6 - that the Tax Office be adequately resourced for its SuperStream functions).

Source: Budget Paper No 2 [p 280]; Minister for Financial Services and Superannuation press release, 8 May 2012

[684] SMSF auditor registration with ASIC - additional funding announced

The Government announced that it will provide $10.7m over 4 years to ASIC to develop and maintain an on-line registration system for auditors of self managed superannuation funds (SMSFs).

As part of the registration process, ASIC will develop a competency exam for SMSF auditors. ASIC will also be responsible for the deregistration of non-compliant auditors.

Auditors may begin to register with ASIC from 31 January 2013.

The Government will also provide $10.6m over 5 years (including $1.5m in capital funding in 2011-12) to the Tax Office to police registered auditors, check their compliance with competency standards set by ASIC and refer auditors to ASIC for enforcement action. The cost of this measure will be offset by increases in the SMSF levy and fees charged by ASIC for sitting the competency exam.

These changes implement the recommendations by the Cooper Review to ensure that the SMSF sector is well managed. Initial funding for this measure was provided in the 2011-12 Budget.

Source: Budget Paper No 2 [p 281]; Treasurer's joint press release, 8 May 2012

GST MEASURES

[685] Extension to compliance program

The Government is to provide $193.3m to the Tax Office in 2014-15 and 2015-16 to continue to promote voluntary GST compliance. This extends a 2010-11 Budget measure by 2 years.

The funding will be directed at detecting fraudulent GST refunds, systematic under-reporting of GST liabilities, failure to lodge GST returns and outstanding GST debts.
The measure is intended to increase tax revenue by $986.2m over the "forwards estimate period". In underlying cash terms, the estimated increase in receipts is $880.9m, including a GST component of $554.1m that will be paid to the States and Territories.

Date of effect

The funding will be provided in the 2014-15 and 2015-16 income years.

Source: Budget Paper No 2 [p 26]; Treasurer's press release, 8 May 2012

[686] RITCs for credit unions

Credit unions who rebrand as banks will have restored access to a reduced input tax credit with effect from 1 July 2012. The change is estimated to have a "minimal" cost to revenue.

This measure will reinstate the existing concession by allowing an RITC for acquisitions from an entity wholly owned by credit unions or rebranded credit unions by a credit union or rebranded credit union. It will apply to entities who were approved credit unions by APRA as at 1 July 2011 and subsequently change their branding to include the title "bank", but otherwise do not change their corporate structure.

Date of effect

The change will take effect from 1 July 2012.

Source: Budget Paper No 2 [p 28]

[687] Minor changes to cross-border rules

The Government will make changes to the 2010-11 Budget measure implementing the recommendations of the Board of Taxation on GST cross-border transactions. The measure is estimated to have an "unquantifiable but small revenue impact".

Following consultation on the design and implementation of the announced measure, the Government will also make a number of other changes, including to those proposed for the supply of goods by non-residents (no other details have been provided). Importantly, the Government will not proceed with changes relating to the non-residency agency provisions.

The Government will also clarify and narrow the definition of "permanent establishment" for GST purposes.

Date of effect

The changes will have a date of effect from the first quarterly tax period following assent of the enabling legislation - rather than 1 July 2012, as originally announced.

Source: Budget Paper No 2 [p 26]

[688] Government appropriations

The Government will insert a regulation-making power in the GST law to prescribe that certain payments between government-related entities are not subject to GST.
This extends the earlier measure contained in the *Mid-Year Economic and Fiscal Outlook 2011-12*. It is anticipated that the change will have no revenue impact.

Date of effect

The change will take effect from 1 July 2012.

Source: Budget Paper No 2 [p 29]

OTHER MEASURES

[689] Portability of Government payments - payment period reduced

From 1 January 2013, the period of time that people who travel overseas will continue to be paid government payments and benefits will be reduced from 13 to 6 weeks for most income support and family payment recipients. Beneficiaries who are outside Australia on the date of implementation will retain the 13 week portability of their payments until they return to Australia. The Age Pension will be excluded as it can be paid overseas indefinitely, once certain criteria are met.

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

Date of effect

The changes will commence on 1 January 2013.

Source: Budget Paper No 2 [p 144]

[690] Parenting payment eligibility to be aligned for all recipients

The Government is to align parenting payment eligibility for all recipients.
From 1 January 2013, all parenting payment recipients who were on payment prior to 1 July 2006 will be assessed under the same eligibility requirements as new recipients. Under this measure grandfathered recipients with their youngest child aged 6 years or over (for partnered recipients) or 8 years or over (for single recipients) will cease to be eligible for parenting payment and will transition onto Newstart Allowance (NSA) unless they move into employment.

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

Date of effect

The changes will commence on 1 January 2013.

Source: Budget Paper No 2 [p 116]

[691] ASIC funding for enhanced supervision of financial markets

The Government will provide ASIC with new funding of $180.2m over 4 years so ASIC can continue to provide strong and effective oversight of financial markets to protect retail investors and their retirement savings.

Operational funding

ASIC will receive $101.9m over 4 years for its operational funding to ensure that it is appropriately resourced to continue its strong, proactive and consultative oversight of financial markets, including surveillance, guidance and education, and the prosecution of breaches of the corporations law.

Enhanced Market Supervision

The Enhanced Market Supervision measure will provide ASIC with further funding of $43.7m over 4 years to replace its real-time integrated market surveillance system with an enhanced, integrated system with increased data mining and analysis capacity. This will enable ASIC to continue to perform its market supervision functions effectively and efficiently, to ensure a level playing field for all investors.

APRA funding for global regulatory reforms

The Government will also provide $82.4m over 4 years to APRA to ensure its continued capacity to supervise the financial system, including the implementation of global regulatory reforms. The additional capital funding will provide for an upgrade of APRA's ICT infrastructure. The cost of this measure will be fully recovered through financial sector levies paid by APRA regulated entities.

Insolvency regulatory framework

The Government will provide $11.4m to ASIC to improve the corporate insolvency practitioner registration process, practice requirements, disciplinary mechanisms and to harmonise the personal and corporate insolvency regimes. The cost of this measure will be offset by fees charged for the lodgement of corporate insolvency notices.

Source: Budget Paper No 2 [pp 276- 278, 308]; Treasurer's joint press release, 8 May 2012

[692] FoFA implementation funding; AFS licence fees to rise

The Government will provide $23.9m over 4 years to ASIC to facilitate the implementation of the Future of Financial Advice (FoFA) reforms. These reforms seek to increase the level of protection for retail investors that seek financial advice and will require ASIC to increase the intensity and scope of its regulatory activities.

In addition to enhancing the protection for consumers that seek financial advice, the funding will enable ASIC to provide regulatory guidance about the reforms and also implement a streamlined system for applying for an Australian Financial Services (AFS) Licence.

AFS licence fees

In order to recover these costs, the application fee to obtain an AFS licence will increase to:

- **Body corporate** - $1,485 (up from either $287 or $575, depending on method of application)
- **Natural person** - $825 (up from either $159 or $351, depending on method of application).

The annual lodgement fee for an AFS licence holder will also increase from $351 to $549 for a body corporate and from $144 to $225 for a natural person.

Source: Budget Paper No 2 [p 278]

[693] Microbreweries excise refund scheme to be extended

The Government will extend the current microbreweries excise refund scheme by increasing the maximum refund amount from $10,000 to $30,000. In addition, the current production eligibility threshold of 30,000 litres of beer will be removed.

The changes will allow breweries to receive an excise refund of 60% of excise paid, up to a maximum amount of $30,000 per financial year. They will also ensure that the refund does not penalise successful local breweries as they expand their production.

Date of effect

These measures will apply from 1 July 2012.

Source: Budget Paper No 2 [p 24]

[694] New income support supplement

The Government will provide a new supplement for eligible income support recipients to assist with cost of living pressures.

The supplement will be an ongoing, non-taxable payment to recipients of Newstart Allowance, Sickness Allowance, Youth Allowance, Austudy, ABSTUDY, Special Benefit, Parenting Payment Single, Parenting Payment Partnered, Transitional Farm Family Payment and the Exceptional Circumstances Relief Payment. The new supplement will provide $210 pa for eligible singles and $175 pa for each member of an eligible couple.

Date of effect

The supplement will be paid in 2 instalments, in March and September each year, with the first payment commencing on 20 March 2013.

Source: Budget Paper No 2 [p 128]

[695] Changes to ABSTUDY eligibility

The maximum age of eligibility for the basic rate of ABSTUDY will be increased from 20 to 21 years and the minimum age of qualification for the maximum rate of ABSTUDY will be increased from 21 to 22 years. Eligibility for the Youth Disability Supplement to ABSTUDY will also extend from 21 to 22 years. Existing recipients, who are 21 years of age as at 1 July 2012 will continue to receive the maximum ABSTUDY rate.

This will align the eligibility age for ABSTUDY payment rates with the revised eligibility ages for Youth Allowance and Newstart Allowance, introduced as part of the 2011-12 Budget.

Source: Budget Paper No 2 [p 109]

[696] Duty free allowances for cigarettes and tobacco to be reduced

The Government announced that it would reduce the inbound duty free allowance for cigarettes and tobacco for international travellers aged 18 years and over to 50 cigarettes or 50 grams of tobacco, effective from 1 September 2012.

Currently, when arriving in Australia, international travellers aged 18 years and over are able to bring in up to 250 cigarettes or 250 grams of tobacco free of duty.

Date of effect

The change will commence 1 September 2012.

Source: Budget Paper No 2 [p 23]

[697] Heavy vehicle road user charges increased

The Government will increase the Road User Charge, collected by the Commonwealth from fuel which is used by registered vehicles with a gross mass of greater than 4.5 tonnes operating on a public road for business purposes.

From 1 July 2012, the Road User Charge will increase from 23.1 to 25.5 cents per litre. This will reduce the fuel tax credit paid by the Commonwealth to eligible heavy vehicle operators.

Source: Budget Paper No 2 [p 279]

[698] Means testing aged care - Budget confirmation

On 20 April 2012, the Prime Minister released a package of measures that will make major changes concerning the aged care system, including new income testing to apply from 1 July 2014. The changes are part of a 10-year plan to reshape aged care, beginning 1 July 2012.

The Budget Papers said the changes are expected to result in savings of $561m over 5 years (including $304.1m in 2016-17) that will be reinvested into the aged care system.

Income and assets tests will be combined from 1 July 2014 to strengthen the means testing arrangements that currently apply to residential care. An annual cap of $25,000 will apply to care contributions in residential care. Care recipients will continue to pay a basic fee, currently up to 84% of the basic Age Pension. Residents in permanent care in an aged care home as at 30 June 2014 and all respite residents will not be affected by these changes.

The Government said it will put in place safeguards to ensure aged care remains affordable and to protect care recipients with higher care needs. Aged care recipients will not contribute more than the cost of their care. In addition, a lifetime cap of $60,000 will be applied to both home care and residential care contributions. The lifetime and annual caps will be indexed.

Source: Budget Paper No 2 [p 184]

[699] Income support recipients - increased frequency of real estate reviews

The Government announced that it will provide $14.6m over 4 years to change the frequency of asset reviews for certain income support recipients from once every 2 years to once a year for those deemed to be most at risk of changes in the value of their real estate investments. This comprises $13.1m to the Department of Human Services and $1.5m to the Department of Families, Housing, Community Services and Indigenous Affairs. Currently around 200,000 Age Pension, Disability Support Pension and Carer Payment recipients own real estate in addition to their own home, which can affect their rate of payment. The Department of Human Services will undertake up to 60,000 reviews annually, providing greater certainty for affected payment recipients about their pension assessment through a more frequent assessment cycle.

Source: Budget Paper No 2 [p 209]

[700] Transitional Farm Family Payment extended

The Government will provide $22.8m over 3 years to extend the Transitional Farm Family Payment program, previously known as the Transitional Income Support program, for 2 years until 30 June 2014.

The program provides eligible farm families experiencing hardship with up to 12 months of income support payments equivalent to the Newstart Allowance. Eligibility criteria for assistance includes a similar income test to the Newstart Allowance and a limit on the net value of assets of $1.5m.

Source: Budget Paper No 2 [p 78]

[701] Apprenticeship funding changes announced

In the Budget, the Government announced that it would discontinue the $1,500 standard employer commencement incentive payment for existing worker Australian Apprentices in non-National Skills Need List occupations but will increase the standard completion incentive by $500 to $3,000. New employee Australian Apprentices and existing workers in National Skills Need List occupations will not be impacted by this change.

The Government said it will also move the standard commencement payment made to employers for all apprentices from being paid 3 months after commencement to 6 months after commencement.

Source: Media release by Minister for Tertiary Education, Skills, Science and Research, 8 May 2012

[702] Low Income Supplement under Clean Energy Scheme - Govt reminder

The Budget Papers reminded people that a new Low Income Supplement of $300 would be available to people in low-income households who can show they did not receive enough assistance through tax cuts or other household assistance payments. People may be eligible for the supplement if they have annual adjusted taxable income of less than $30,000 for singles, $45,000 for couples and $60,000 for people with dependent children. To be eligible, people must be able to show that in 2011-12, they were either not required to pay tax or were required to pay tax of less than $300 and that for most of the year, they did not receive another government payment.

People can apply for the payment from 1 July 2012.

Source: Securing a Clean Energy Future: implementing the Australian Government's Climate Change plan, 8 May 2012