CLIENT ALERT

June 2013

Budget 2013/14

The Government handed down the 2013/14 Budget on 14 May 2013. Most of the tax and superannuation measures had already been previously announced, but a few of the new measures include the following:

- The government will defer the personal income tax cuts that were to commence from 1 July 2015 (i.e., by raising the tax-free threshold from $18,200 to $19,400);
- From 1 July 2014, the government will increase the Medicare levy by 0.5% from 1.5% to 2% to provide funding for Disability Care Australia (i.e., the national disability insurance scheme);
- From 1 July 2014, the non-primary production threshold for farm management deposits (FMDs) will be increased from $65,000 to $100,000 (i.e., this means that primary producers will be able to claim deductions for FMDs where their non-primary production income does not exceed $100,000);
- From 1 March 2014, the Baby Bonus will no longer be available. Instead, families eligible for Family Tax Benefit (FTB) Part A will receive an additional loading on their family payments when they have a new baby (if they are not accessing the Government's Paid Parental Leave scheme), totalling $2,000 for the first child (and all multiple births) and $1,000 for subsequent children; and
- The government will phase out the net medical expenses tax offset, although there will be transitional arrangements for those currently claiming the offset.

Limited recourse borrowing arrangements by SMSFs

According to the ATO, with many SMSF trustees entering into limited recourse borrowing arrangements (LRBAs), it appears there is still some uncertainty with respect to associated taxation issues.

Editor: SMSFs are generally prohibited from borrowing, but since 2007 there has been an exception where an SMSF borrows on a limited recourse basis to acquire a specific asset, and very strict conditions are met.

One of these conditions is that the asset is not held in the name of the SMSF, but is instead held under a separate trust (e.g., a 'holding trust).

A trustee of an SMSF who enters into a LRBA for the purpose of purchasing an asset will be treated as the owner of the asset for income tax purposes, meaning the SMSF will be assessed on the income earned on the underlying asset (such as rental income) and will be able to claim any relevant deductions.

In addition, it is the SMSF which should account for any relevant GST amounts on income and expenses associated with the LRBA.

Therefore, where the LRBA is set up appropriately, there will be no need for the holding trust to lodge an annual return with the ATO.

The ATO also warns that SMSFs entering into LRBAs need to do so carefully, because an arrangement that does not meet all the requirements would contravene the borrowing prohibition and place the compliance status of the fund at risk.

Superannuation changes for employers from 1 July 2013

From 1 July 2013, the super guarantee rate is going up from 9% to 9.25% (and the rate will increase gradually over 7 years to 12% by 2019).

Also, from 1 July 2013, the upper age limit for paying super for an employee has been removed, meaning that there will no longer be a maximum age for super guarantee eligibility.

Employers with eligible employees aged 70 years or older will need to make super contributions to their super funds from 1 July 2013.

Super funds will also be allowed to start providing a new type of super account called 'MySuper' from 1 July 2013, which will replace existing default accounts offered by super funds (a default fund account is one chosen by an employer for an employee who does not choose their own super fund).

Therefore, it may be a good idea for employers to check with their current default fund to find out whether they will be offering a MySuper account.

Record keeping for small business CGT concessions

The ATO has issued a reminder that taxpayers should keep good records to help them determine if they are eligible to claim the small business CGT concessions, including evidence of:

- carrying on a business, including calculation of turnover (to demonstrate eligibility for the 'small business entity' (SBE) test);
- the market value of relevant assets just before the CGT event (to demonstrate eligibility for the $6 million maximum net asset value test);
- how capital losses have been calculated and carried forward to later years; and
- relevant trust deeds, trust minutes, company constitution and any other relevant documents.

Luxury Car Tax limit for 2013/14

The luxury car tax threshold for the 2013/14 financial year has been indexed to $60,316 (up from $59,133 for the 2012/13 year) and is used to determine if luxury car tax is payable.

The fuel-efficient car limit for the 2013/14 financial year is $75,375 (unchanged from the 2012/13 year).

Car parking threshold: 2013/14

The car parking threshold for the FBT year commencing on 1 April 2013 is $8.03 (up from $7.83 for the year commencing 1 April 2012).

Editor: Two of the conditions that must be met before car parking facilities provided by an employer to an employee will be subject to FBT is that a commercial car parking station is located within a 1 km radius of the employer-provided car park, and that the lowest fee charged by the operator of that car park is more than the car parking threshold.

Returns with refunds will need bank account details

According to the ATO, the fastest, most secure way to receive a tax refund is to have it paid directly into a nominated Australian bank account using electronic funds transfer (EFT).

From 1 July 2013, individual tax returns will generally require bank account details, including BSB and account number, to be entered, where a refund is expected.

Joint accounts and trust accounts will be acceptable.

Changes to the SMSF Levy

The government recently announced that it will reform the supervisory levy arrangements for SMSFs by:

- increasing the levy from $191 in 2012/13 to $259 per year from 2013/14 onwards; and
- bringing the payment of the levy forward so it is levied and collected in the same year of income. This will be phased in over 2013/14 and 2014/15, to give SMSFs time to adjust.

Car expense per km rates – 2012/13

The car expense per kilometre rates have been set for the 2012/13 year. They are the same as the 2011/12 rates.

Type of car	Engine capacity – non-rotary	Engine capacity – rotary	Km rate (cents)
Small	0 – 1,600	0 – 800	63
Medium	1,601 – 2,600	801 – 1,300	74
Large	2,601+	1,301+	75

Proposed changes to superannuation

The Government has announced that it plans to make the following changes to the superannuation laws (in addition to other changes already made, such as the progressive increase in the superannuation guarantee rate from 9% to 12%):

- cap the tax exemption for earnings on superannuation assets supporting income streams (i.e., superannuation pensions) at $100,000, with a concessional tax rate of 15% applying thereafter, and apply the same treatment to defined benefit funds;
- provide a higher $35,000 concessional contributions cap to people aged 60 and over from 1 July 2013, and to individuals aged 50 and over from 1 July 2014;
- reform the treatment of concessional contributions in excess of the annual cap;
- extend the normal deeming rules (for social security purposes) to superannuation account-based income streams;
- extend concessional tax treatment to deferred lifetime annuities; and
- further reform the arrangements for lost superannuation.

Self-education expenses next on the chopping block!

The Government has announced that it will “better target work related self-education expense deductions” by introducing an annual cap on deductions for such expenses from 1 July 2014 of $2,000 a person.

Education expenses include formal qualifications and associated tuition fees, textbooks, stationery and travel expenses and also conferences, seminars and self-organised study tours.

However, employers that provide education and training to their employees will continue to have this excluded from any liability for fringe benefits tax (FBT) unless an employee salary sacrifices to obtain these benefits.

Editor: Although the Government states that they are targeting people making large claims for expenses such as first class airfares, five star accommodation and expensive courses, the introduction of a $2,000 annual deduction cap seems like a very blunt instrument to tackle such claims.

Our tax agent association is taking up the fight to ensure that 'regular' claims are not affected.

FBT: Benchmark interest rate

The benchmark interest rate for the 2013/14 FBT year is 6.45% p.a. (down from 7.40%), which is used to calculate the taxable value of:

- a fringe benefit provided by way of a loan; and
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

FBT: Cents per kilometre basis

The rates to be applied where the cents per kilometre basis is used in respect of the private use of a vehicle (other than a car) for the 2013/14 FBT year, commencing 1 April 2013, are:

Engine capacity	Rate per kilometre
0 – 2,500cc	49 cents
Over 2,500cc	59 cents
Motorcycles	15 cents