

FEDERAL BUDGET 2010: A sector-by-sector guide

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The Federal Budget is short on big-ticket spending initiatives, but full of smaller, targeted measures designed to give specific sectors a boost.

Advertising and marketing

Nothing specific for this industry, although as we said when the Henry Review was released, the changes around small business investment write-offs is likely to create plenty of interest in B2B selling when it kicks in mid-2012, particularly in the lead up to tax time. At least there was nothing bad in the Budget for this sector, unlike last year when the extension of the Do Not Call Register to cover business numbers gave this sector a shock.

Agribusiness

As in previous years the focus here is on drought assistance to the nations farmers. Most programs have received extra funding, which should help the sector with its recovery. The sector will also benefit from new biosecurity measures, which received \$61.3 million in funding.

Construction and engineering

The creation of a new \$700 million infrastructure fund, announced as part of the Government's response to the Henry Review, is good news for the sector. On top of this there was \$1 billion for rail upgrades, which should also provide work for those in this sector.

Financial services and insurance

If there is one sector that is a real winner from the Budget, it is financial services. For starters, the Government will encourage savings by providing a 50% tax discount on the first \$1,000 of interest earned on deposits, bonds, debentures and annuity products. The Government will also phase down the interest withholding tax rate on interest paid on offshore borrowing to encourage foreign institutions into the market, and create something called the Centre for International Finance & Regulation to provide research and training in the sector. Add to this the increase in the superannuation guarantee and it's easy to see that money will pour into this sector over the next decade.

Health and pharmaceuticals

A winner and a loser. On the plus side, there was \$2.2 billion for new health initiatives, including \$467 million for a new e-Health initiative. On the negative side, Government spending on pharmaceuticals will fall by around \$2 billion, and the tax break for medical expenses has been reduced. Still, it's worth remembering that this is another sector that will get plenty of budgetary attention in the future as the population ages.

Information technology

A winner on two fronts. The new e-Health initiative should provide a real boost to the sector, which has been pushing for the Government to take medical records online for many years.

The IT sector should also enjoy a boost from the Government's new skills package, which was worth \$600 million. As one of the sectors already suffering acute skills shortages, at least some of the 39,000 training places will go to IT.

Manufacturing

While the new spending on skills will be welcomed by manufacturing, the automotive sector will be less pleased with Industry Minister Kim Carr's decision to reduce funding to the green car innovation fund by \$200 million over three years (from \$1.3 billion to \$1.1 billion). It's a strange decision – while the Government's climate pollution reduction scheme is on the backburner, it seems strange to reduce funding to one of the programs that would have helped the car sector in the long-term.

Media

The media sector already knew all about its big win – a \$210 million rebate on broadcast license fees. In another win, the Government will invest \$375.4 million over 12 years to provide transmission of digital free-to-air television services from a new satellite platform as part of the switch to digital television.

Professional services

Accounting bodies have been positive about the Government's decision to simplify tax returns by creating an option for taxpayers to take a standard deduction of work-related and tax expenses, starting at \$500 in 2012-13 and rising to \$1000 in 2013-14. However, what impact this will have on smaller tax agents, accountants and bookkeepers really remains to be seen. The Government predicts 6.4 million taxpayers could eventually use the option, meaning they might not even need to see a tax agent at all at tax time. That could really hurt those accountants who concentrate on fast-turnaround individual tax work.

Property

Nothing specific for this sector, although the Property Council has welcomed extra funding for infrastructure and skills, as well as the fact the Budget is heading back towards the black.

Resources and energy

The Government's reliance on the resources sector is highlighted by the budget papers. Not only are the Budget's growth forecasts largely underpinned by a big rise in business investment by the mining sector, but the new Resources Super Profit Tax is forecast to add a whopping \$12 billion to the Government coffers over the next four years. Of course, these two facts do appear to be at odds – if Super Profit Tax gets up, will mining investment really be as strong as the Government thinks?

Retail

The Australian Retailers Association were extremely disappointed with the Budget, claiming there was no immediate help for small retailers who find themselves operating in some of the worst trading conditions in years. While the cuts to the corporate tax rate and the immediate asset write-off is good, smaller retailers won't see the benefits of these programs for more than two years.

Telecommunications

Nothing specific for this sector, although Wayne Swan did make it clear that the National Broadband Network is a key focus for the Government going into the next election.

Tourism and leisure

Two areas of the leisure sector received a boost. Recreational boat builders will benefit from a change to GST laws that will make it easier for people to buy boats for export without needing to pay GST, while the film industry will be helped with more attractive tax breaks.

Transport and logistics

Another big winner. The Government will invest \$1 billion in the Australian Rail Track Corporation to help improve the efficiency of Australia's freight rail system. The new \$700 million infrastructure fund paid for by the Resources Super Profit Tax will also be focused on rail, roads and ports.

Federal Budget 2010/11

Tax highlights

The Treasurer Mr Wayne Swan's third Federal Budget was handed down at 7.30 pm on 11 May 2010. It is intended to be a responsible Budget that will return the government to surplus ahead of schedule. As expected, it contained measures to provide a tax discount on savings and to make it easier to fill in tax returns. However, the Budget unexpectedly contained a raft of other minor tax changes.

Here are the tax highlights of the 2010/11 Budget.

Individuals and families

- From 1 July 2011, individuals will be entitled to a 50% discount on up to \$1,000 of interest earned.
- From 1 July 2012, individual taxpayers will be entitled to an optional standard deduction of \$500, increasing to \$1,000 from 1 July 2013.
- The medical expenses tax offset threshold will be increased from \$1,500 to \$2,000 with effect from 1 July 2010. The threshold will also be indexed annually, with effect from 1 July 2011.
- The Medicare low-income thresholds will be increased to \$18,488 for individuals and \$31,196 for families, with effect from 1 July 2009.
- Money held in first home savers accounts will be able to be paid into approved mortgages where the account holder buys a home prior to the end of the four year period.
- The Senior Australians tax offset regulations will be amended, with effect from 1 July 2010, to take account of the low income tax offset threshold.
- The benchmark interest rate on capital protected borrowings entered into from 7:30 pm (AEST) 13 May 2008 is the Reserve Bank indicator rate for standard variable housing loans plus 100 basis points.

Companies and trusts

- Regulations have been registered facilitating debt tax treatment of certain term subordinated notes under the debt/equity rules
- The debt/equity transitional period for Upper Tier 2 capital instruments will be extended to 1 July 2010
- There will be changes to eligibility requirements for film tax offsets to provide a boost for the Australian film industry
- The IWT rate on borrowings of local subsidiaries from their overseas parents will be reduced from 10% to 7.5% in 2013/14 and to 5% in 2014/15. The IWT rate for borrowings by any bank branch from its overseas head office will be reduced from 5% to 2.5% in 2013/14 and to zero in 2014/15.
- From 1 July 2009, where a private company provides a dwelling to the shareholder of the private company or their associate, for use as their main residence, a payment will not arise under the non-commercial loan rules.

- The income tax treatment of qualifying instalment warrants will be amended to provide certainty for investors by treating them as the owner of the underlying asset for income tax purposes, with effect from 1 July 2007.
- The operation of the consolidation regime will be improved in various ways to correct technical deficiencies and to ensure that the operation is as intended.
- The rules relating to the calculation and collection of income tax liabilities will be improved so that they apply consistently to consolidated groups and MEC groups, and confirm existing practice.
- Application dates of previously announced consolidation measures will be modified
- Non-membership equity interests issued by a leaving or joining entity to a consolidated group are to be taken account under the tax cost setting rules
- CGT rollover will apply to Indigenous incorporated bodies converting to a company incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* after 7.30 pm (AEST) on 11 May 2010.
- From 11 May 2010, Australian interest holders will be able to access a broader range of CGT rollovers where an entity restructures using a share or interest sale facility for foreign interest holders.
- From 11 May 2010, the CGT demerger relief provisions will be extended so that demerger groups which currently include corporations sole or complying superannuation entities can benefit from the relief.

Superannuation

- The co-contribution matching rate will be permanently maintained at 100% and co-contribution thresholds will be non-indexed for the next two income years
- The Superannuation Complaints Tribunal and the Tax Office will receive a funding boost

GST

- All the recommendations of the Board of Taxation from its Review of the application of GST to cross-border transactions will be implemented, with effect from 1 July 2012.
- Further minor revisions will be made to the legal framework for the administration of the GST.

- The GST law will be amended to replace the current mechanism for exempting Australian taxes, fees and charges with a principles-based legislative exemption, with effect from 1 July 2011.
- The financial supply provisions of the GST law will be amended to clarify the operation of the legislation and reduce compliance and administrative costs, particularly for many small businesses, with effect from 1 July 2012.
- The margin scheme provisions will be restructured to clarify and simplify the current provisions, with effect from 1 July 2012. The Government will also make a minor technical amendment to ensure that a valuation can be obtained for the purposes of using the margin scheme for subdivided land.
- Eligible supplies of boats used for recreational purposes will be GST-free if the boats are exported from Australia within 12 months, with effect from 1 July 2011. The current limit is 60 days.
- A number of minor revisions will reduce GST compliance costs for businesses involved in the domestic transport of exported and imported goods.
- \$337.5m will be provided over four years to the ATO to fund additional activities that promote voluntary GST compliance and provide a level playing field for Australian businesses.

Other taxes

- The 2004/05 Budget measure to introduce an energy content-based fuel excise system will be amended, in particular, for ethanol
- Public ancillary funds will be subject to a new regulatory regime to ensure that they comply with minimum standards.

Tax administration

- The Tax Office will be given \$107.9m over four years to unfair competitive advantages that arise when some small business operators avoid their taxation obligations by conducting their businesses in the cash economy.
- Flexibility will be provided in managing running balance accounts and interest will be paid to taxpayers where overpayments arise because of an amended franking deficit tax assessment.

Responses to Reports

- The government has responded to the *Report of the Australian Financial Centre Forum Australia as a financial centre: Building on our strengths* (Johnson Report)

- A large number of measures noted in the Budget were released last week in the Government's response to the *Australia's Future Tax System* report (Henry Review).
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Individuals and families

Savings incentives

From 1 July 2011, individuals will be entitled to a 50% discount on up to \$1,000 of interest earned, including on deposits held with any bank, building society or credit union, as well as bonds, debentures or annuity products. For example, for a person earning an average pre-tax interest rate of 6%, the discount would apply up to a savings balance of just over \$16,500. The discount will be available for interest income earned directly as well as indirectly, such as via a trust or managed investment scheme.

It is expected that banks, building societies and credit unions will benefit from a greater supply of stable deposit funding, which will reduce their requirement to borrow in international capital markets from overseas investors.

Taxpayers claiming the discount for interest income will have a reduced adjusted taxable income for the purpose of determining eligibility for transfer payments and other concessions. This will result in some individuals and families becoming eligible for transfer payments or eligible for a larger transfer payment.

The Government will seek consultation during 2010/11 on details concerning the operation of the discount, including on the final scope of eligible savings products and the mechanism for applying the discount to interest earned indirectly by individuals.

As a related measure, ASIC will allow listed entities meeting appropriate criteria to issue bonds to retail investors using a simplified process, while maintaining a strong level of investor protection. This is intended to make it easier for businesses to borrow directly from retail investors and reduce their reliance on borrowing from banks.

The *Australia's Future Tax System* report had recommended a 40% savings income discount to individuals for non-business related net interest income (Recommendation 14).

Source: Treasurer's Press releases: Reforms to boost business credit and encourage saving; and Improving incentives for saving to benefit 5.7 million Australians; Budget Paper No 2, p 38.

Standard deduction for individual taxpayers

From 1 July 2012, individual taxpayers will be entitled to an optional standard deduction of \$500 in lieu of claiming work-related expenses and the cost of managing their tax affairs. The standard deduction will be increased to \$1,000 from 1 July 2013.

Taxpayers with expenses above the standard deduction will be able to continue to claim those expenses when lodging their tax return under the existing rules.

The government expects that the standard deduction will reduce individuals' and families' adjusted taxable income for the purpose of determining their eligibility for transfer payments and other concessions. This will make some individuals and families eligible for transfer payments or increased transfer payments (eg Family Tax Benefit, Baby Bonus, Child Care Benefit, Commonwealth Seniors Health Card and the Seniors Supplement).

The standard deduction was one of the recommendations of the *Australia's Future Tax System* report (Recommendation 11).

Treasurer's Press Release: Standard deduction to increase tax returns for 6.4 million Australians, 11 May 2010; Budget paper No 2, p 47.

Medical expenses tax offset threshold

The threshold above which a taxpayer can claim the net medical expenses tax offset will be increased from \$1,500 to \$2,000 and the threshold will commence to be annually indexed to the Consumer Price Index, with effect from 1 July 2010. The first indexation adjustment to the threshold will take place on 1 July 2011. The offset currently allows taxpayers to receive a tax offset equal to 20% of net unreimbursed eligible medical expenses above \$1,500.

Source: Budget Paper No 2, p 35.

Medicare levy low-income thresholds

For 2009/10, the Medicare low-income thresholds will be increased to \$18,488 for individuals and \$31,196 for families. The additional amount of threshold for each dependent child or student will also increase to \$2,865. The increase in these thresholds takes into account movements in the Consumer Price Index and ensures that low-income families and individuals are not liable to pay the Medicare levy.

The Medicare levy threshold for single pensioners below Age Pension age will increase to \$27,697, with effect from 1 July 2009. This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy when they do not have an income tax liability.

Source: Treasurer's Press Release: Increase in the Medicare levy and Medicare levy surcharge low-income thresholds, 11 May 2010; Budget Paper No 2, p 36.

First home saver account changes

The first home savers accounts rules have been amended to allow FHSA monies to be transferred into an approved mortgage where the FHSA holder acquires a home before the end of the four-year period. Prior to this amendment FHSA holders who bought a house within 4 years of opening a FHSA would only maintain concessional treatment of their FHSA money if they transferred their money to their superannuation.

Source: Treasurer's Press Release, Helping Australian's buy their first home by increasing flexibility of first home saver accounts, 12 May 2010.

Amendment to SATO regulations

The Senior Australians tax offset regulations affecting the calculation of the rebate threshold will be amended, with effect from 1 July 2010, to take account of the low income tax offset (LITO).

Currently, the formula specified in the regulations for calculating the rebate threshold fails to reflect the fact that the LITO is reduced when taxable income exceeds \$30,000. This measure will ensure that where the rebate threshold exceeds \$30,000, the calculation of the rebate threshold incorporates the reduction in the LITO.

Source: Budget Paper No 2, p 13.

Capital protected borrowings

The benchmark interest rate on capital protected borrowings is the Reserve Bank indicator rate for standard variable housing loans plus 100 basis points (instead of the RBA indicator rate for standard variable housing loans as announced in the 2008-09 Budget). The measure will apply to capital protected borrowings entered into from 7:30 pm (AEST) 13 May 2008.

The Government will also extend the transitional arrangements for capital protected borrowings entered into at or before 7:30 pm (AEST) 13 May 2008 from the previously announced date of 13 May 2013 to 30 June 2013. This extension is intended to reduce compliance costs for affected taxpayers in the 2012/13 income year.

The Government has released the draft legislation that gives effect to these changes for consultation on technical details. The consultation period for the exposure draft bill finishes on 11 June 2010 and copies of all relevant materials are available at Treasury [website](#).

Source: Assistant Treasurer's Press Release: Change to benchmark interest rate for capital protected borrowings, 11 May 2010; Budget Paper No 2, p 18.

Companies and trusts

Debt/equity: regulations facilitating debt tax treatment of certain term subordinated notes

Further to a press release of 20 April 2010, the Government has registered regulations that facilitate debt tax treatment of certain term subordinated notes. The regulations commenced on 15 April 2010 and apply to payments of principal or interest made under the relevant notes on or after 1 July 2001. The regulations provide that certain solvency and capital adequacy clauses in the relevant notes do not preclude the notes from being a debt interest under the debt/equity tax rules. The clauses allow or require the payment of principal or interest on the notes to be deferred in certain circumstances. Without the regulations, the clauses may make the obligation to pay the principal or interest a contingent obligation and consequently preclude the relevant note from being a debt interest for tax purposes.

Source: Budget paper No 2, p 22.

Debt/equity: extending the debt/equity transitional period for Upper Tier 2 capital instruments

Further to a press release of 20 April 2010, the Government will extend the debt/equity transitional period for Upper Tier 2 capital instruments to 1 July 2010, with effect from the date of Royal Assent of the enabling legislation. Extension of the debt/equity transitional period to 1 July 2010 is expected to allow time to transition to the proposed regulations that will ensure that certain Upper Tier 2 subordinated notes are not precluded from being a debt interest under the debt/equity tax rules. The measure will apply to Upper Tier 2 instruments issued before 1 July 2001.

Source: Budget paper No 2, p 22.

Changes to film tax offsets

There will be changes to eligibility requirements for film tax offsets to provide a boost for the Australian film industry. The government will remove the current requirement under the Location Offset for productions valued between \$15m and \$50m to spend a minimum of 70% of their production budgets in Australia. The Post, Digital and Visual Effects Production (PDV) threshold will also be reduced, from \$5m to \$500,000. Both changes will apply from 1 July 2010.

Changes to the offsets are part of an initial government response to issues affecting the film industry. The government will further consider the outcomes from the 2010 Review of the Australian Independent Screen Production Sector being conducted by the

Department of the Environment, Water, Heritage and the Arts, after it reports later this year.

Source: Joint media release of the Assistant Treasurer and Minister for the Arts, 11 May 2010.

Reduction of the IWT rate

The interest withholding tax (IWT) rate on borrowings of local subsidiaries from their overseas parents will be reduced from 10% to 7.5% in 2013/14 and to 5% in 2014/15. The Government is “favourably disposed” to reducing this rate to zero, subject to its medium-term fiscal objectives.

In addition, the IWT rate for borrowings by any bank branch from its overseas head office will be reduced from 5% to 2.5% in 2013/14 and to zero in 2014/15.

This reform also extends to Australian-owned financial institutions borrowing from related parties overseas, and any financial institution borrowing offshore retail deposits which they on-lend in Australia.

The measure is aimed at allowing non-major banks to access cheaper funding so they can offer cheaper loans to Australian households and businesses.

The announced measure was one of the recommendations of the *Australia’s Future Tax System* report (Recommendation 33). It also responds to a key recommendation of the Australian Financial Centre Forum’s report, *Australia as a Financial Centre: Building on our Strengths*.

As an integrity measure, the IWT phase-down will not apply to either interest paid on non-resident retail deposits held in Australia or offshore borrowings by entities that are not financial institutions.

IWT rates and exemptions for financial institutions

Type of borrowing	Current IWT	IWT from 2013-14	IWT from 2014-15
Financial institution borrows from a foreign financial institution (where not exempt under a tax treaty)	10%	7.5%	5% Aspirational target of zero
Foreign bank branch borrows from overseas head office	5%	2.5%	Exempt
Financial institution borrows from offshore retail deposits (proceeds used and traced to Australian operations)	10%	7.5%	5% Aspirational target of zero
Financial institution borrows through a publicly offered debenture issue, non-equity	Exempt	Exempt	Exempt

share or syndicated loan

Offshore banking unit (borrows and on-lends offshore)	Exempt	Exempt	Exempt
Financial institution borrows from nonresident retail deposits held in Australia	10%	10%	10%

Source: Treasurer's Press Release: Phasing down IWT on financial institutions to support banking competition, 11 May 2010; Budget paper No 2, p 43.

Non-commercial loan rules

The government will further refine the non-commercial loan rules announced in the 2009/10 Budget by clarifying the scope of payments that can give rise to a deemed dividend when they are provided to shareholders or their associates, with effect from 1 July 2009. The measure will clarify that, where a private company provides a dwelling to the shareholder of the private company or their associate for use as their main residence, a payment will not arise under the non-commercial loan rules. The exemption will apply to the use of a dwelling where the private company acquired the dwelling before 1 July 2009 and the private company continues to meet a modified continuity of ownership test.

Source: Budget Paper No 2, p 35.

Income tax treatment of instalment warrants

The income tax treatment of qualifying instalment warrants will be amended to provide certainty for investors by treating them as the owner of the underlying asset for income tax purposes, with effect from 1 July 2007. The measure will also ensure that the opportunity for non-recourse borrowing by trustees of superannuation funds permitted under prudential regulations is not undermined by its tax treatment.

Source: Budget Paper No 2, p 28.

Consolidation: technical refinements

The operation of the consolidation regime will be modified to correct technical deficiencies and to ensure that it operates as intended by:

- simplifying the approach to making various consolidation choices, with effect from 1 July 2002 — in particular, modifications will be made to ensure that a choice to form a consolidated group remains effective despite a defect in the notice to advise the Commissioner of Taxation of the choice
- allowing a company that was a member of a multiple entry consolidated group (MEC group) since formation to be eligible to be appointed as the provisional head company of the group, with effect from 1 July 2002

- allowing, as a transitional rule, consolidated groups to make a choice to preserve the capital gains tax treatment of a gain or loss that arises prior to 23 August 2006 when an amount received in payment of a foreign currency trade receivable exceeds its tax cost setting amount, with effect from 1 July 2002, and
- correcting the formula for working out the adjustment for inherited deductions under the tax cost setting rules that apply when an entity leaves a consolidated group, with effect from 10 February 2010.

Source: Budget paper No 2, p 21.

Consolidation: calculation of income tax liabilities from consolidated groups improved

The rules relating to the calculation and collection of tax liabilities from consolidated groups and multiple entry consolidated groups (MEC groups) will be improved so that an entity in a tax sharing agreement will be able to leave a consolidated group or MEC group clear of any future income tax liabilities relating to the group. This is intended to overcome any technical difficulties with the operation of the current law and ensure consistency with current practice.

The improvements intend to clarify that:

- unpaid Pay-As-You-Go (PAYG) liabilities can be recovered by the Commissioner under the liability for payment rules, with effect from 11 May 2010
- an entity which pays its contribution amount under a tax sharing agreement can leave a consolidated group or MEC group clear from further liability, with effect from the 2004/05 income year
- the liability for payment rules apply to MEC groups, with effect from 11 May 2011
- where there is a change in the provisional head company of a MEC group during an income year, any PAYG instalments paid by the former provisional head company on behalf of the group are attributed to the group, with effect from 1 July 2002, and
- generally, the relevant parts of the income tax act law apply to MEC groups in the same way as they apply to consolidated groups with effect from 1 July 2002.

Source: Assistant Treasurer's Press Release: New rules to improve calculation of income tax liabilities from consolidated groups, 11 May, 2010; Budget Paper No 2, p 19.

Consolidation: modification of application dates of previously announced measures

Further to the press release by the Treasurer and the then Assistant Treasurer and Minister for Competition Policy and Consumer Affairs on 13 May 2008 , the announced

dates of the various measures to improve the operation of the consolidation regime will be modified to ensure that no consolidated group is disadvantaged.

Source: Budget paper No 2, p 20.

Consolidation: non-membership equity interests

The consolidation regime will be modified so that non-membership equity interests issued by an entity that joins or leaves a consolidated group are taken into account under the tax cost setting rules (which operate to reset the tax costs of the joining entity's assets when an entity joins a consolidated group) with effect from 10 February 2010. Taxpayers have the option to apply the measure from 1 July 2002.

This measure will ensure that, if the joining entity has issued non-membership equity interests, the tax costs of its assets are not understated by the value of those interests. Additionally, if a leaving entity has issued non-membership equity interests to members of the group, a tax cost will arise for those interests. Furthermore, if the leaving entity has issued non-membership equity interests to entities that are not members of the group, this measure will ensure that the tax costs of the membership interests held by the group are not overstated by the value of those interests.

Source: Budget paper No 2, p 20.

CGT changes

The Government has announced a number of CGT changes including changes to the treatment of earnout arrangements, the extension of CGT rollover relief for certain business restructures, and roll-over relief for transfers by the Commonwealth Superannuation Corporation to the ARIA investment trust .

Rollover relief for certain business restructures

The Government has announced a number of amendments to the CGT provisions to improve the ability of businesses to restructure.

The proposed changes will apply to CGT events happening after 7.30 pm (AEST) on 11 May 2010.

Initial consultation on the first 3 measures will be undertaken on the design of these amendments with a consultation paper providing further information about these measures available at the Treasury [website](#). The Government will also release an exposure draft of the legislation at a later date.

CGT Roll-over for conversion of a body to an incorporated company

CGT rollover will apply to Indigenous incorporated bodies converting to a company incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) after 7.30 pm (AEST) on 11 May 2010. Indigenous companies will also be able to move between the Corporations Act 2001 and the CATSI Act without CGT consequences. The rollover has also been made more flexible to better accommodate business practices. This caters for situations where bodies are wound up and subsequently reincorporated and also allows for taxpayers to receive shares on incorporation to reflect all of the interests and rights they held in the original body. Roll-over will also be available for any gains or losses realised by the original entity when it ceases to own its CGT assets, trading stock, and depreciating and revenue assets that become assets of the newly incorporated entity as part of the reincorporation.

Rollover relief: Extension of the share sale exclusion to additional CGT roll-overs

Australian interest holders will be able to access a broader range of CGT rollovers where an entity restructures using a share or interest sale facility for foreign interest holders.

Currently, where a business restructures and uses a share or interest sale facility for foreign interest holders, Australian resident interest holders are unable to access some CGT rollovers. The proposed change will allow entities undertaking certain restructures to use a share or interest sale facilities for dealing with the interests of foreign residents without automatically failing the ownership proportion tests in the applicable roll-over while ensuring that ownership requirements are appropriately maintained.

Extension of CGT demerger relief for certain demerger groups

The CGT demerger relief provisions will be amended so that demerger groups which currently include corporations sole or complying superannuation entities can benefit from the relief. This measure is intended to remove a current defect in the CGT legislation that has restricted access to CGT demerger relief if the head entity is a corporation sole or a complying superannuation entity.

Look-through treatment for earnout arrangements

The Government will allow all payments under a qualifying earnout arrangement to be treated as relating to the underlying business asset. The measure will have effect from the date of Royal Assent of the enabling legislation, with transitional provisions available in certain cases from 17 October 2007.

Earnout arrangements are used to structure the sale of a business (or business assets) to manage uncertainty about the value of the business. Under the earnout arrangement, an

earnout right may entitle the buyer or seller to additional payments depending on the subsequent performance of the business.

Currently, an earnout right is treated as a separate capital gains tax (CGT) asset. This treatment can result in anomalous outcomes for taxpayers where the actual payments under the earnout right differ from the amounts estimated at the start of the arrangement, such as by reducing access to the CGT small business concessions. This measure will ensure that the CGT treatment of earnout arrangements does not create an impediment to the efficient market for the sale of businesses or business assets.

Roll-over for certain transfers by the Commonwealth Superannuation Corporation to the ARIA investment trust

The Government will provide roll-over relief for the transfer by the proposed Commonwealth Superannuation Corporation of assets from the Military Superannuation Benefits Scheme to the Australian Reward Investment Alliance (ARIA) investment trust, with effect from 1 July 2010 until 30 June 2011. The CGT roll-over will ensure that no capital gain or loss will be recognised at the time of the transfer. The provision of this CGT roll-over reflects the involuntary nature of the transaction due to proposed changes in the governance of the funds.

Source: Assistant Treasurer's Press Release: Reforms to capital gains tax to make it easier for businesses to restructure, 11 May 2010; Budget paper No 2, pp 15-17.

Superannuation

Superannuation co-contribution scheme reduction

The superannuation co-contribution reduction will be permanent for all workers from the 2012/13 income year. The co-contribution decline and cut-out low thresholds will also be frozen for the next two years at their present levels of \$31,920 and \$61,920.

Previously the co-contribution matching rate was legislated to increase to 125% in the 2012/13 income year and to return to its prior level of 150% in the 2014/15 income year.

Source: Budget Paper No.2, pp 298-299.

Increased funding for superannuation administration

The Tax Office will received an additional \$16m a year to ensure that participants in the superannuation co-contribution scheme satisfy eligibility requirements.

The Superannuation Complaints Tribunal (SCT) will receive an additional \$5.9m to handle the increased workload of superannuation complaints.

Source: Minister for Financial Services and Superannuation Press Release: Sustaining the SCT's capabilities, 12 May 2010; Budget Paper No 2, pp 298-99.

Minor superannuation amendments

The Government has released a number of other superannuation measures including:

- • permitting complying superannuation funds and retirement savings account providers to deduct a wider range of terminal medical condition benefits
- • transferring unclaimed superannuation monies held by the state and territories to the Tax Office
- • extending the existing merger relief for superannuation funds past the 2010–11 income year.
- • permanently allowing a claim for a deduction for eligible contributions to be made to successor superannuation funds
- • increasing the time-limit for deductible employer contributions made for former employees
- • clarifying the due date of the shortfall interest charge for the purposes of excess contributions tax
- • allowing the Commissioner of Taxation to exercise discretion for the purposes of excess contributions tax before an assessment is issued, and
- • providing new arrangements for public sector defined benefit schemes which fund benefits through “last minute contributions”.

Source: Budget Paper No 2, pp 48-50.

GST

Cross-border transactions

All the recommendations of the Board of Taxation from its Review of the application of GST to cross-border transactions will be implemented, with effect from 1 July 2012. The package will reduce the number of non-residents who are unnecessarily drawn into Australia's GST system, through: limiting the connection with Australian provisions, expanding the compulsory reverse charge provision, extending the GST-free rules for cross-border supplies, and removing the need for some non-residents to register.

Components of the package that are a change to the GST base are subject to the unanimous agreement of the States and Territories.

Source: Budget Paper No 2, p 23.

Minor changes

This measure will remove unintended policy outcomes and ensure that the reforms achieve their maximum effectiveness in reducing compliance costs, streamlining the provisions and removing anomalies in the GST administrative framework.

The start date for the following components of the 2009/10 Budget measure has been revised to 1 July 2011:

- • adopting the income tax self assessment regime for indirect taxes and refresh the period of review
- • reforming the change of use adjustments
- • allowing adjustments for pre-registration acquisitions
- • clarifying the treatment of tax law partnerships
- • simplifying the GST grouping membership interest rules and allowing grouping of non-operating holding companies, and
- • introducing a reverse charge for supplies of going concerns and farmland.

Source: Budget Paper No 2, p 24.

Exemption for taxes, fees and charges

The GST law will be amended to replace the current mechanism for exempting Australian taxes, fees and charges with a principles-based legislative exemption, with effect from 1 July 2011.

The GST law currently specifies that Australian taxes, fees and charges are exempt from GST if they are included in a determination made by the Treasurer. This measure will allow the GST treatment of an Australian tax, fee or charge to be determined against legislative principles. This measure will provide increased certainty to taxpayers and Government agencies in relation to the GST treatment of new taxes, fees and charges, as the tax treatment is not dependent on the item being listed in a determination.

Source: Budget Paper No 2, p 25.

Financial supplies

The financial supply provisions of the GST law will be amended to clarify the operation of the legislation and reduce compliance and administrative costs, particularly for many small businesses, with effect from 1 July 2012. This measure will increase GST payments to the States and Territories by \$8m over the forward estimates period. The reforms are the result of three reviews into specific aspects of the GST announced in the 2009/10 Budget following recommendations by the Board of Taxation's *Review of the Legal Framework for the Administration of the GST*.

The reforms include: increasing the threshold above which businesses need to interact with the financial supply provisions from \$50,000 to \$150,000 of input tax credits, delivering compliance savings for many more small businesses, protecting the GST base by reducing opportunities for businesses to inappropriately take advantage of the reduced input tax credit concessions by bundling services, and allowing small businesses accounting for GST on a cash basis to claim input tax credits up front in relation to hire purchase arrangements (this change will assist those businesses that have been forced into higher cost chattel mortgages following the introduction of the GST).

Components of the package that are a change to the GST base are subject to the unanimous agreement of the States and Territories.

Source: Assistant Treasurer's Press Release: Further reductions in GST compliance costs for business, 11 May 2010; Budget Paper No 2, p 26.

Margin scheme changes

After consultation with the public on the effectiveness and efficiency of the margin scheme, the Government canvassed a range of options aimed at achieving the desired outcome, including replacing the existing scheme with a set of principles. However, the Government came to the view that the costs and risks to revenue integrity associated with addressing the 'gaps' within the existing current policy would outweigh the potential benefits, resulting in more, rather than less, complex legislation and placing additional information needs on taxpayers.

Therefore, the margin scheme provisions will be restructured to clarify and simplify the current provisions, with effect from 1 July 2012. The Government will also make a minor technical amendment to ensure that a valuation can be obtained for the purposes of using the margin scheme for subdivided land. The reforms are the result of three reviews into specific aspects of the GST announced in the 2009/10 Budget following recommendations by the Board of Taxation's *Review of the Legal Framework for the Administration of the GST*.

Source: Assistant Treasurer's Press Release: Further reductions in GST compliance costs for business - Attachment A, 11 May 2010; Budget Paper No 2, p 26.

Sale of boats for export

Eligible supplies of boats used for recreational purposes will be GST-free if the boats are exported from Australia within 12 months, with effect from 1 July 2011. The current limit is 60 days. These changes will help Australian boat builders to overcome disadvantages they face relative to foreign competitors who can more easily sell boats for export tax-free, and will contribute to greater economic activity in regional ports.

Further details of the measure will be determined after consultation. The measure is subject to the unanimous agreement of the States and Territories.

Source: Assistant Treasurer's Press Release: Changes to GST law to assist Australian boat builders to boost export sales, 11 May 2010; Budget Paper No 2, p 26.

Cross-border transport supplies

A number of minor revisions to its 2009-10 Budget measure that reduces GST compliance costs for businesses involved in the domestic transport of exported and imported goods will be made, to ensure that the place of consignment will always be determined by the place of delivery in the principal contract. The measure will also ensure that ancillary services to the international transport of goods receive the same GST treatment as the transport supply that they facilitate.

Source: Budget Paper No 2, p 27.

Improving voluntary compliance

\$337.5m will be provided over four years to the Taxation Office to fund additional activities that promote voluntary GST compliance and provide a level playing field for Australian businesses. This measure will address issues relating to: fraudulent GST refunds, systematic under-reporting of GST liabilities, non-lodgement of GST returns, and non-payment of GST debts. \$6.5m in capital funding will be provided to the Taxation Office in 2010/11, which will give additional capacity to store and analyse data that is obtained from external agencies.

Source: Budget Paper No 2, p 27–28.

Other taxes

Fuel tax: amending the arrangements for ethanol

The 2004/05 Budget measure to introduce an energy content-based fuel excise system will be amended to introduce an energy content-based fuel system, in particular, for ethanol. The excise and excise-equivalent customs duty rate for ethanol will be set at 25 cents per litre from 1 July 2011, phasing down to 12.5 cents per litre from 1 July 2015. There will be an offsetting grant payment to domestic ethanol producers that will be progressively reduced from 22.5 cents per litre on 1 July 2011 to zero by 1 July 2015. There will be no offsetting grants for excise-equivalent customs duty. It is anticipated that the measure will provide the Australian ethanol industry with adequate time to prepare for the forthcoming changes.

Source: Budget paper No 2, p 23.

New regulatory regime for public ancillary gift funds proposed

Public ancillary funds will be subject to a new regulatory regime to ensure that they comply with minimum standards covering administration, deductible gift recipients and other governance matters.

The guidelines will be legislated and the Commissioner of Taxation will be able to levy administrative penalties on trustees who do not comply with these rules.

The new system will commence from July 2011.

Source: Assistant Treasurer's Press Release: New regulatory framework to further improve transparency in charitable sector, 12 May 2010; Budget Paper No 2, p 37.

Tax administration

ATO compliance program: cash economy

The government will provide \$107.9m over four years to the Tax Office to address unfair competitive advantages that arise when some small business operators avoid their taxation obligations by conducting some or all of their business in the cash economy.

This measure will assist Australian small business to compete on a level playing field by addressing unfair tax practices through increasing the visibility of the Tax Office in the community. This measure is expected to result in an additional \$491.8m in revenue in fiscal balance terms over four years and an increase of \$39.9m in Tax Office administered expenses over the same period. In underlying cash terms, the expected increase in revenue is \$366.5m over four years, including \$146.7m in GST collections that will be paid to the States and Territories.

Source: Budget Paper No 2, p 13.

Improvements to Running Balance Accounts

The government will increase flexibility in managing running balance accounts and provide for interest to be paid to taxpayers where overpayments arise because of an amended franking deficit tax assessment. The measure will take effect from a date to be decided after public consultation.

Source: Budget Paper No 2, p 28.

Responses to Reports

Government response to Johnson Report

The government has responded to the *Report of the Australian Financial Centre Forum Australia as a financial centre: Building on our strengths* (Johnson Report) and has provided in-principle or direct support for nearly all of the Report's 19 recommendations, including the introduction of an Investment Manager Regime.

In relation to taxation and as announced in the Budget, the government will phase down the interest withholding tax (IWT) paid by financial institutions. The main IWT rate will come down from 10% to 5% and will reduce that to zero when fiscal circumstances allow. As an integrity measure, the Government will maintain the existing IWT rate on non-resident retail deposits in Australia.

The government has asked Mr Mark Johnson to chair a task force of senior financial sector representatives to continue its work in promoting Australia as a financial centre for the region and facilitate industry input into the design of a range of proposals including the Asia Region Funds Passport, the Investment Manager Regime, and funds management vehicles. The role of the Task Force will cover three areas: (1) regional engagement and enhancing Australia's presence in Asia; (2) engagement with domestic industry on an informal basis; and (3) facilitation of industry input into the design of several of the key outputs that flow from the recommendations of the Johnson Report.

The Government's response to the Johnson Report will complement other government action to increase the international attractiveness of Australia's financial sector:

- from 1 July 2009, the withholding tax rate on certain distributions of income to non-residents by Australian managed funds was reduced to 15%. From July 1 2010, the withholding tax rate on those distributions will be cut further to 7.5%
- consistent with Recommendation 3.6 of the Johnson Report, the Board of Taxation has been asked to undertake a comprehensive review of Australia's tax laws to ensure that, wherever possible, they do not inhibit the expansion of Islamic financial products in Australia
- consistent with Recommendation 4.5 of the Johnson Report, the Government has announced support for competition between markets for trading in listed shares in Australia. Securing Australia's status as a regional financial services centre will create opportunities for Australian businesses and ultimately benefit all Australians.

The government will also ask the Board of Taxation to:

- review the tax treatment of collective investment vehicles, having regard to the new managed investment trust (MIT) tax framework and including whether a broader range of tax flow-through vehicles should be permitted; and
- as part of the review, examine the treatment of Venture Capital Limited Partnership vehicles to see if they are all necessary and consistent with the government's objective of developing Australia as a leading financial centre. Detailed Terms of Reference of the review, including the dates for reporting to Government, will be released in the near future.

Source: Joint media releases of the Minister for Superannuation and the Assistant Treasurer: Government responds to Australia as a Financial Services Centre Report; and Australian Government commences consultation on an Investment Manager Regime, 11 May 2010.

Henry tax review measures

A large number of measures announced in the Budget were released last week in the Government's response to the *Australia's Future Tax System* report (Henry Review) including:

- a Resource Super Profits Tax (RSPT) will be introduced on 1 July 2012 at a rate of 40% on profits made from the exploitation of Australia's non-renewable resources.
- the States and Territories will be provided with new, ongoing infrastructure funding, with an initial total amount of \$700m in 2012/13.
- a refundable resource exploration rebate will be provided to companies, set at the prevailing company tax rate, for exploration expenditure carried out in Australia from 2011/12.
- the company tax rate will be reduced to 29% from 2013/14, and to 28% from 2014/15.
- the company tax rate for "eligible small business companies" will be reduced to 28% from 2012/13
- the immediate write-off for assets of small businesses will be extended to assets valued at less than \$5,000 from 1 July 2012.
- the superannuation guarantee charge (SGC) will be increased by annual increments until it reaches the plateau level of 12% by 2019/20
- the entitlement to the SGC will be broadened by lifting the maximum age threshold from 70 to 75 years of age
- the concessional contributions cap will be raised to \$50,000 per year for workers who are 50 and over and who have superannuation balances of under \$500,000
- a new government superannuation contribution will be created which will pay up to \$500 for workers with adjusted taxable incomes of up to \$37,000

2010 – 11 Federal Budget: economic outlook improving, some tax sweeteners

On Tuesday 11 May, the Treasurer, the Hon Wayne Swan MP, handed down the 2010 – 11 Federal Budget, his third Budget.

In looking to set a Budget to take the government to the next election, a brighter economic outlook appears to have delivered the funding for a range of tax sweeteners. While still essentially a 'no frills' Budget, the government has announced a 50 per cent tax savings discount on up to \$1000 of interest earned by individuals and a standard \$500 deduction for work-related expenses.

The major revenue measures proposed in the Budget included:

- 50 per cent tax savings discount — from 1 July 2011, the government will provide a 50 per cent tax discount on up to \$1000 of interest earned by individuals (including interest income earned indirectly via a trust or managed investment scheme)
- standard deduction for work-related expenses — individual taxpayers will get a standard deduction of \$500 for work-related expenses and the cost of managing tax affairs from 1 July 2012 (increasing to \$1000 from 1 July 2013)
- personal tax rates — no change to already legislated cuts to the individual tax rates for 2010 – 11
- Medicare levy low-income thresholds — from 1 July 2009, increased for singles to \$18,488 (\$31,196 for members of a family)
- SATO rebate — calculation of the rebate threshold for the senior Australians tax offset (SATO) will be amended to correctly factor in the effect of the low income tax offset
- medical expenses rebate threshold — will increase from \$1500 to \$2000 from 1 July
- public ancillary funds — new regulatory framework to be introduced from 1 July 2011
- First Home Saver Accounts (FHSA)— proposal to allow savings in an FHSA to be paid into an approved mortgage after the end of a minimum qualifying period
- earnout arrangements — all payments under a qualifying earnout arrangement will be treated as relating to the underlying business asset
- CGT demerger relief extended — Capital Gains Tax (CGT) demerger provisions to be amended to allow another member of a demerger group to qualify as the head entity of the group where the existing head entity cannot demerge its interests in the demerger group, effective for CGT events happening after 7.30 pm on Tuesday 11 May
- CGT: share sale facility — legislation to be enacted to allow Australian interest holders to utilise a broader range of CGT rollovers where an entity

restructures using a share or interest sale facility for foreign interest holders, effective for CGT events happening after 7.30 pm on Tuesday 11 May

- consolidated groups — rules relating to the calculation and collection of income tax liabilities from consolidated groups and MEC groups to be amended to allow an entity in a tax sharing agreement to leave a consolidated group or MEC group clear of any future income tax liabilities relating to the group
- Running Balance Accounts — government to increase flexibility in managing running balance accounts and provide for interest to be paid to taxpayers if an overpayment arises because of an amended franking deficit tax assessment
- reforms to the GST financial supply provisions — the government will amend the provisions to clarify the operation of the legislation and reduce compliance and administrative costs
- reforms to the margin scheme — the government has proposed to restructure the margin scheme provisions to give prominence to the main principles with exceptions set out separately and insert objects clauses for the key provisions so that the intention is clear
- revamp to the GST-treatment of Australian taxes, fees and charges — the government will replace Div 81 with a principles-based legislation exemption in relation to Australian taxes, fees and charges
- export of boats used for recreational purposes — the government announced that a supply of a boat used for recreational purposes to be GST-free if the boat is exported by a purchaser (from Australia) within 12 months and only used for recreational purposes whilst in Australia
- increase funding for ATO — the ATO will receive \$337.5m over four years to fund additional activities that will promote voluntary GST compliance and will provide a level playing field for Australian businesses. The funding will also assist the ATO in addressing issues relating to fraudulent GST refunds, systematic under-reporting of GST liabilities, non-lodgment of GST returns and non-payment of GST debts
- revise date for commencement of Board of Taxation's recommendations — the government has stated that it will revise the commencement date for some of the recommendations in the Board of Taxation's review of the legal framework for the administration of the GST to 1 July 2011
- changes to cross-border transactions — the government has accepted all the [recommendations of the Board of Taxation](#) from its review of the application of GST to cross-border transactions — proposed to take effect from 1 July 2012
- capital protected borrowings — benchmark interest rate to be adjusted for capital protected borrowings entered into from 7:30 pm (AEST) 13 May 2008
- interest withholding tax — to be phased down for financial institutions

- managed investment trusts — definition of MIT to be amended for withholding tax purposes to include certain wholesale managed investment schemes and certain widely held pooled superannuation trusts
- film tax offsets — proposed changes to the eligibility requirements for film tax offsets effective from Thursday 1 July
- cash economy — increased ATO funding to address small business operators who use cash transactions to avoid tax
- CGT rollover for Indigenous incorporated bodies — CGT rollover provisions to be extended to allow Indigenous incorporated bodies to convert to a company under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*
- super co-contributions — government to permanently set the matching rate for the superannuation co-contribution at 100 per cent and freeze the eligibility income thresholds for 2010 – 11 and 2011 – 12
- terminal medical condition benefits — range of benefits that are deductible by complying superannuation funds to be extended to include terminal medical condition benefits
- minor super amendments — commissioner to be able to exercise discretion for the purposes of excess contributions tax before an assessment is issued and time limit to be increased for deductible employer contributions made for former employees
- Family Tax Benefit — various amendments proposed
- Child care rebate — annual child care rebate to be capped

More information on the tax and related announcements is also contained in a number of press releases — see the [Treasurer's website](#) and the [Assistant Treasurer's website](#).

The Federal Budget follows directly after the government's initial response to the Henry tax review released on Sunday 2 May.

The government's initial response to the 138 recommendations in the Henry tax review focused primarily on the resources sector, superannuation, a reduction in the company tax rate and some benefits for small business. The Budget papers contain various references to these previously announced government measures in response to the Henry tax review, including: the Resource Super Profits Tax; the Resource Exploration Rebate; reduction in company tax rate to 28 per cent; other tax benefits for small businesses; and various superannuation proposals.

The Budget papers are available on the [Federal Government's Budget 2010 – 11 website](#).

Source: CPA Tax News 13/05/10