2018 Federal Budget update

10 May 2018
7 min. read
Worthwhile read for: Celebrities, R&D Professional, Director, Global Company, Individual
2018/2019 financial year / budgeting / tax changes

Key points

- A seven year personal income tax plan that will be implemented in three steps; to provide permanent tax relief for low to middle income earners, to provide relief from bracket creep and to remove the 37% personal income tax bracket
- Integrity measures to stop high profile individuals from licensing their fame or image to another entity to avoid income tax
- Limiting tax deductions for the holding of vacant land
- Significant changes to the R&D tax incentive
- Amendments to Division 7A (deemed dividend rules), specifically the treatment of unpaid present entitlements
- Broadening the definition of “significant global entity” for transfer pricing and reporting purposes
- Extending the directors penalty regime to include GST liabilities and other liabilities, as well as reforms to combat “illegal phoenix activity”

Federal Treasurer, Scott Morrison handed down his third budget on Tuesday night. Whilst the budget had some hidden nasties and surprise sweeteners, the main focus of the budget was to further strengthen the economy to “guarantee the essentials Australians rely on” and responsibly repair the budget.

Quick links

Personal income tax plan

Step 1 low and middle income tax offset

A new low and middle income tax offset (LMITO) will be implemented from 1 July 2018 to 30 June 2022. The LMITO will provide a benefit of up to $200 per year for taxpayers earning under $37,000 and up to $530 for those earning between $48,000 and $90,000 per annum. For taxpayers earning between $90,000 and $125,333, the offset will phase out at a rate of 1.5 cents per dollar.

Step 2 Relief from bracket creep

From 1 July 2018, the Government will increase the top threshold of the 32.5 per cent personal income tax bracket from $87,000 to $90,000, with a further increase from $90,000 to $120,000 effective from 1 July 2022. In addition, the 19% tax rate will also increase from $37,000 to $41,000.

A summary of these tax changes is illustrated below:

Rate	Current	2018/19 to 2021/22	2022/23 to 2023/24
0%	Up to $18,200	Up to $18,200	Up to $18,200
19%	$18,201 - $37,000	$18,201 - $37,000	$18,201 - $41,000
32.5%	$37,001 - $87,000	$37,001 - $90,000	$41,001 - $120,000
37%	$87,001 - $180,000	$90,001 - $180,000	$120,001 - $180,000
45%	$180,000+	$180,000+	$180,000+

Step 3 removing the 37% personal income tax bracket

From 1 July 2024, the Government will abolish the 37% personal income tax bracket.

The Government will also extend the top threshold of the 32.5 per cent personal income tax bracket from $120,000 to $200,000, and taxpayers will pay the top marginal tax rate of 45 per cent for taxable incomes exceeding $200,000 and the 32.5 per cent tax bracket will apply to taxable incomes of $41,001 to $200,000.

Source: Budget Paper No 2 pp 33-34; Treasurer’s media release “Tax relief for working Australians, low and middle income earners first”, 8 May 2018

Taxing individuals that licence their fame and image

From 1 July 2019, high-profile individuals (such as sportspersons and actors) are no longer able to take advantage of lower tax rates by licencing their fame or image to another entity.

This measure will ensure that all remuneration (including payments and non-cash benefits) provided for the commercial exploitation of a person’s fame or image will be included in the assessable income of that individual.

Source: Budget Paper No 2 p45

Limiting tax deductions for vacant land

From 1 July 2019, the Government will deny deductions for expenses associated with holding vacant land.

The Government introduced this integrity measure to address concerns that deductions are being improperly claimed for expenses, (such as interest costs) related to holding vacant land, where the land is not genuinely held for the purpose of earning assessable income.

This measure will apply to land held for residential or commercial purposes. However, the ‘carrying on a business’ test will generally exclude land held for commercial development.

The measure will not apply to expenses associated with holding land that are incurred after a property has been constructed on the land, has received approval to be occupied and is available for rent or the land is being used by the owner to carry on a business, including a business of primary production.

Source: Budget Paper No 2 p42

Changes to the R&D tax incentive

From 1 July 2018, the calculation for entities claiming the R&D tax incentive will change.

For companies with aggregated annual turnover of $20 million or more, the Government will introduce an R&D premium that ties the rates of the non-refundable R&D tax offset to the incremental intensity of R&D expenditure as a proportion of total expenditure for the year.

The marginal R&D premium will be the claimant's company tax rate plus:

- 4 percentage points for R&D expenditure between 0 per cent to 2 per cent R&D intensity;
- 6.5 percentage points for R&D expenditure above 2 per cent to 5 per cent R&D intensity;
- 9 percentage points for R&D expenditure above 5 per cent to 10 per cent R&D intensity; and
- 12.5 percentage points for R&D expenditure above 10 per cent R&D intensity.

The R&D expenditure threshold - the maximum amount of R&D expenditure eligible for concessional R&D tax offsets will be increased from $100 million to $150 million per annum.

For companies with aggregated annual turnover below $20 million, the refundable R&D offset will be a premium of 13.5 percentage points above a claimant's company tax rate and cash refunds from the refundable R&D tax offset will be capped at $4 million per annum. Any refundable amounts above the $4 million cap can be carried forward to later income years.

Source: Budget Paper No 2 p20

Division 7A - Unpaid Present Entitlements

From 1 July 2019, the Government will introduce measures to ensure that an Unpaid Present Entitlement (**UPE**) will come within the scope of Division 7A.

This integrity measure means that UPE's will either be required to be repaid to the private company over time as a complying loan or will be subject to tax as a dividend.

There is no clear guidance as to whether this change will apply only to future UPEs, or will also transition to existing arrangements in place (and in particular, pre-2009 UPE's).

Source: Budget Paper No 2 p41

Definition of "significant global entity"

The current definition of a "significant global entity" (for international tax reporting purposes) applies only to an entity which is a member of a group headed by a public company or a private company required to provide consolidated financial statements.

From 1 July 2018, the Government will broaden the definition of a “significant global entity” to include members of large multinational groups headed by private companies, trusts and partnerships that are not required to provide consolidated financial statements. It will also include members of groups headed by investment entities.

Source: Budget Paper No 2 p26

Extending the directors penalty regime and illegal phoenix activity

The Government will introduce integrity reforms to corporations and tax laws that are aimed at deterring and disrupting certain activity. The package includes reforms to:

- introduce new phoenix offences to target those who conduct or facilitate illegal phoenixing;
- prevent directors improperly backdating resignations to avoid liability or prosecution;
- limit the ability of directors to resign when this would leave the company with no directors;
- restrict the ability of related creditors to vote on the appointment, removal or replacement of an external administrator;
- extend the Director Penalty Regime to GST, luxury car tax and wine equalisation tax, making directors personally liable for the company’s debts; and
- expand the ATO’s power to retain refunds where there are outstanding tax lodgements.

Source: Budget Paper No 2 p37

For more information or discussion, please contact our Taxation team.

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