

Mid-Year Economic and Fiscal Outlook 2011-12

The bottom line

Since the Federal Government handed down its May budget for 2011-12 Australia's budgetary position has deteriorated with the estimated cash deficit now \$37.1 billion (compared to \$22.6 billion) to be followed by an estimated cash surplus of \$1.5 billion (compared to \$3.5 billion) in 2012-13.

The \$14.5 billion deterioration in current year figures includes a downward revision of tax receipts of \$4.8 billion and an increase in payments under the Natural Disaster and Recovery Arrangements of \$2.3 billion.

Tax changes

There are a number of recent tax changes including those contained in the mid-year economic and fiscal outlook ("MYEFO").

The following provides brief details of those most likely to be of interest to our clients.

Carbon pricing

In case you haven't seen the news lately, the Government will be placing an explicit price on greenhouse gas emissions through a carbon pricing mechanism. It will sell carbon units and use the revenue to help households, industry, community organisations, workers and regions adjust to the carbon price.

Carbon units will be sold by the Government at a fixed price per tonne of \$23.00 in 2012-13, \$24.15 in 2013-14 and \$25.40 in 2014-15 before transitioning to a flexible price linked to the international market from 2015-16.

Supplies of carbon units are to be GST-free.

Reform of living-away-from-home-allowance and benefits

From 1 July 2012 the fringe benefits tax ("FBT") rules relating to the living-away-from-home-allowance ("LAFHA") are to change to prevent what the Government considers to be the widespread exploitation of the concessions in a manner that is outside the original policy intent of the concessions.

Currently taxpayers who are required to live in Australia away from their usual residence for employment reasons are able to structure their remuneration in such a manner that their actual or reasonable accommodation costs and also a reasonable component of their food costs are effectively tax free. Many Australian residents are required to live away from home as part of their employment and the numerous workers in Australia on temporary resident visas (such as 457 visas) are living away from home.

When you think about the significant costs of rental in Australia and particularly its capital cities and that these workers are paying these costs in pre-tax dollars you can see the significant problem for the Government in terms of revenue collection – for example, an executive having their rental of \$5,000 per week paid for by their employer would effectively be receiving \$260,000 per annum of their remuneration package tax free.

The Government suggests that their proposed changes will bring about a level playing field between hiring an Australian worker and a temporary resident worker living at home in Australia in the same place doing the same job. The Government expects these changes to provide over \$200 million a year in extra tax receipts.

The proposed changes are as follows:

- Temporary resident employees will be required to maintain a home for their own use in Australia (which they are living away from for work) to access the concession, and in those cases the expenses will need to be substantiated; and
- All other employees will be required to substantiate their living away from home expenses;
- Living away from home allowances (as distinct from expense payment fringe benefits for food and accommodation or the actual provision of food and accommodation for the employee) will receive income tax treatment rather than FBT treatment.

The broad consequences of the changes in relation to particular types of employees are as follows:

- For permanent residents and temporary residents maintaining a home in Australia which they are living away from because of work:
 - Allowances provided to an employee for living away from home (where there is no intention that the employee reconcile the allowance with actual food and accommodation costs) will be included in the employee's assessable income and the employee may claim an income tax deduction for substantiated expenses for accommodation and for food above a statutory amount;
 - Expense payment benefits (reimbursements or direct payments where the employee provides supporting documentation) provided to an employee living away from home for accommodation and food will be exempt from FBT for actual expenses for accommodation and for food above a statutory amount;
 - Accommodation and food provided directly for an employee living away from home will be exempt from FBT for accommodation and for food above a statutory amount.
- For other temporary residents (that is, those which are not maintaining a home in Australia which they are living away from because of work):
 - Allowances provided to an employee for living away from home will be included in the employee's assessable income and no income tax deduction will be available;
 - Expense payment benefits (reimbursements or direct payments where the employee provides supporting documentation) provided to an employee living away from home for accommodation and food will be subject to FBT; and
 - Accommodation and food provided directly for an employee living away from home will be subject to FBT.

The Government has clearly targeted the situation of temporary residents (such as 457 visa holders) working in Australia being able to effectively automatically access the existing LAFHA concessions.

Other than having substantiation requirements placed upon them which may have some impact (both administrative and actual – for example, if accommodation or food expenses had actually been less than the reasonable accommodation or food allowances provided), permanent residents come away from these proposed reforms relatively unscathed.

Car fringe benefits statutory rate

In the May Budget transitional arrangements for the statutory rate for determining the taxable value of car fringe benefits on contracts entered into after 7.30pm AEST 10 May 2011 were announced. To assist employers with compliance they can elect to skip the transitional arrangements and apply the flat 20% statutory rate straight away (with employee consent if affected employees would be directly worse off as a result of the employer making the election)

50% tax discount for personal interest income deferred

The 2010-11 budget proposal that only 50% of interest income would be taxed has been deferred by 12 months to commence 1 July 2013.

Dependent spouse tax offset (“DSTO”)

In the May Budget it was announced that the DSTO would be phased out for taxpayers with a dependent spouse born on or after 1 July 1971. It will now be phased out from 1 July 2012 for taxpayers with a dependent spouse born on or after 1 July 1952.

Standard tax deduction deferred

The 2010-11 budget proposal to allow taxpayers a standard deduction in their personal tax return for work related expenses and the cost of managing their tax affairs has been deferred by 12 months to commence 1 July 2013.

Superannuation guarantee age limit abolished

With effect from 1 July 2013 it will be compulsory for employers to provide superannuation guarantee contributions for employees aged 75 or over.

Superannuation guarantee rates

The rate of SGC will progressively increase from 9% to 12% in accordance with the following timetable:

Year starting 1 July 2013	9.25%
Year starting 1 July 2014	9.5%
Year starting 1 July 2015	10%
Year starting 1 July 2016	10.5%
Year starting 1 July 2017	11%
Year starting 1 July 2018	11.5%
Year starting on or after 1 July 2019	12%

Superannuation concessional contributions caps pause in indexation

Indexation of the superannuation general concessional contributions cap of \$25,000 will be deferred for one year in 2013-14 and hence will remain at \$25,000 until at least 2014-15 when it is expected to rise to \$30,000.

This will also result in a pause of the indexation of the concessional contributions cap for individuals aged 50 and over (the amount of which is yet to be announced for the year commencing 1 July 2012) and the non-concessional contributions cap.

Minimum pension drawdowns

Rather than return to normal in 2012-13 as was announced in the May Budget, minimum annual pension payments will continue to benefit from the current 25% relief in 2012-13.

Transfer pricing rules

Australia's transfer pricing rules (which are concerned with international profit shifting) are to be amended to better align them with international best practice.

Taxation of trusts

A consultation paper "Modernising the taxation of trust income – options for reform" has been released awaiting submissions by 10 February 2012.

A complete update and rewrite of the tax provisions governing the taxation of trusts can be expected as a result. However, the broad policy framework is to remain that the taxable income of a trust will continue to be assessed primarily to beneficiaries, with trustees assessed to the extent that amounts of taxable income are not otherwise assessable to beneficiaries.

The following five principles elaborate on this policy framework:

1. Tax liabilities in respect of the income and gains of a trust should "follow the money" in that they should attach to the entities that receive the economic benefits from the trust;
2. The provisions governing the taxation of trust income should be conceptually robust, so as to minimise both anomalous results and opportunities to manipulate tax liabilities;
3. The provisions governing the taxation of trust income should provide certainty and minimise compliance costs and complexity;
4. It should be clear whether amounts obtained by trustees retain their character and source when they flow through, or are assessed, to beneficiaries;
5. Trust losses should generally be trapped in trusts subject to limited special rules for their use.