BRIEFINGS

WATERHOUSE
CHARTERED ACCOUNTANTS

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What Budget Announcements will Become Reality?

The Coalition has formed government, but what happens now to all those Budget announcements? We take a look at what announcements are likely to pass Parliament and why.

Business Tax Cuts
Prediction: heavily amended

The Budget proposed a company tax rate reduction to 25% over 10 years - starting with businesses with a turnover up to $10m accessing a 27.5% tax rate from 2016-17. It is unlikely these tax cuts will pass the Senate in their current form.

In general, tax cuts for Australia's largest corporations are deeply unpopular despite modelling that shows an overall reduction in the corporate tax rate stimulates the economy. The Greens have stated that they will not support tax cuts for big business, describing the announced reforms in their budget reply as "liberal corporate welfare".

Most Australian businesses are small and medium businesses - over 800,000 companies; only 0.3% are large or very large. Despite the big business focus during the election campaign, there is base level support to increase the threshold to access the current 28.5% small business company tax rate from $2m to $10m - a position supported by Senator Xenophon's team which holds three Senate seats (the Greens also supported the current reduced tax rate for small business).

Our prediction: if the company tax cut makes it through Parliament it will be limited to expanding the existing small business tax rate to businesses up to $10 million turnover.

Income Tax Cuts
Prediction: in doubt

Depending on your perspective, the Budget announcement to increase the 32.5% personal income tax threshold from $80,000 to $87,000 from 1 July 2016 is a stopgap against bracket creep or a handout for middle-income households.

The Greens have rejected the reform, but Pauline Hanson, whose One Nation party may have up to three Senate seats, is quoted as saying, "… there are a lot of Australians who need a break in the cost of living, who face bracket creep and are paying a lot of income tax."

There is a chance the personal tax cuts will pass Parliament, potentially with a different start date and depending on the final Senate composition. But there may be a sting in the tail for high income earners with Mr Xenophon calling for the Temporary Budget Repair levy (debt tax) to be extended (it is due to expire on 30 June 2017). The debt tax came into effect on 1 July 2014 and is payable at a rate of 2% on every dollar of a taxpayer's annual taxable income over $180,000 – increasing the top marginal tax rate to 49%.

Superannuation Reform
Prediction: amended

Superannuation reform will happen. The simple reason is that, increasingly, SMSFs in particular are used for tax and estate planning rather than strictly for retirement purposes. According to a 2015 report by the Association of Superannuation Funds of Australia "… around $360 billion is held in superannuation by those with more than $1 million in super."

The more controversial budget measures: limiting the non-concessional contributions cap to a lifetime limit of $500,000 from Budget night (applies to all non-concessional contributions made on or after 1 July 2007); and capping tax-free earnings on superannuation balances to $1.6 million, are in doubt in their current form, in part because they do not shelter existing retirees. However, it is likely that we will see an amended form of these announcements.

The other announced superannuation reforms are more likely to pass Parliament as most parties broadly support reforming the way tax concessions apply to superannuation. These include a reduction in concessional contribution caps, an extension of the 30% tax on the superannuation contributions of high income earners, and the removal of the tax exemption on earnings supporting transition to retirement income streams.

One of the positives of the Budget reforms is the removal of the contribution restrictions for those 65 to 74. Under these reforms, people under the age of 75 will no longer have to satisfy a work test and will be able to receive contributions from their spouse.

We'll keep you posted.

Crowdfunding – is it Worth it?

We've heard the success stories of innovators with a great ideas who, supported by crowdfunding, have been able to launch successful and high growth businesses. But what happens to the money?

There are several types of crowdfunding:

- **Donation based** - funding a cause without the fundraiser providing anything in return.
- **Reward based** - funding to bring an idea or concept to fruition in exchange for a reward, e.g. discounted final product, free product or service**.**
- **Equity based** - funding in exchange for a share in the promoter.
- **Debt based** - funding is paid back at a rate of interest.

The Corporations Act restricts proprietary companies to no more than 50 non-employee shareholders. So companies offering equity need to become public companies (generally small unlisted public companies) to successfully use crowdfunding to raise capital.

The most common form of crowdfunding in Australia is reward based.

Assuming the project reaches it's funding target and goes ahead, the next question is often "what happens with the money"?

Crowdfunding platforms - such as Kickstarter and Australian based Pozible - take a percentage fee on successful crowdfunding projects that reach their targets. In general, no money is transacted from either the donor or the project promoter until the funding target is reached.

If the funding is contributing to a business activity or project with the purpose of generating income, then for tax purposes the funding is assessable income in the year the funds are received. Conversely, if you pay tax on the income you receive for your project then you can claim a deduction for expenses related to that activity.

The rewards given away may also be subject to GST. If the project promoter is registered for GST and is obliged to provide anything in return for the payment then this is likely to be subject to GST. If there is no obligation to provide anything then GST is unlikely to apply.

From an investor's perspective, while the promises made by crowdfunding projects are subject to consumer laws, it's very difficult to get your money back if the promoter fails to deliver. And the platforms facilitating crowdfunding don't take responsibility if the rewards are not delivered. Also, while the money you contribute might be called a donation, it is not generally a tax-deductible donation. If you are expecting something in return for the contribution that is made, then the tax treatment of the payment will depend on the situation (e.g. a payment for an equity stake in a business is likely to be capital in nature and non-deductible).

Crowdfunding in Australia remains ill defined. A Bill before Parliament before the double dissolution sought to clarify and restrict the crowdfunding process by creating clear rules for funding and consumer protections. This Bill, which may be resurrected in some form, sought to limit crowdfunding to public unlisted companies with less than $5m in assets and raise up to $5m per annum. New Zealand already has crowdfunding legislation in place.

Need help? Contact us today about the options and implications of alternate funding sources.

See also:

- ATO – Crowdfunding.
- Draft legislation – Corporations Amendment (Crowd-sourced Funding) Bill 2015.
- ASIC – MoneySmart – crowd funding.
- Choice - Crowdfunding risks, rewards and regulation.

Important Update Regarding the Provision of Superannuation Advice

From 1 July 2016, due to changes in legislation removing what was previously referred to as "the accountants' exemption", accountants are legally no longer permitted to provide certain advice to clients regarding superannuation, unless they hold or operate under an Australian Financial Services Licence (AFSL).

We have proactively reacted to these changes and have established another arm of the business operating as Waterhouse Wealth Management Pty Limited (WWM), which is licenced to provide the advice.

This means that while WCA may have provided advice in the past in respect of certain matters, WCA will no longer be able to do so under our accounting banner. Such matters include (but are not limited to) advice in respect of:

- Making additional contributions over the superannuation guarantee, including spouse contributions, in-specie transfers, salary sacrifice superannuation, personal superannuation contributions, etc.;
- Recommending commencement of any form of pension;
- Setting up a self-managed superannuation fund (SMSF);
- Winding up a SMSF;
- Recommending rollover to or from an SMSF or other superannuation fund;
- Advising on the performance of different types of superannuation choices or different superannuation funds;
- Recommending the purchase of property through an SMSF;
- Preparing an investment strategy for SMSF's; or
- Recommending a client to have a binding death benefit nomination, including who should be nominated.

To ensure we can continue to provide this valuable advice to our clients, WCA has established WWM as mentioned above. WWM is an authorised representative of The Advice Exchange (AFSL 278937) and is able to provide advice on all matters in respect of superannuation.

While we can continue to provide superannuation-related advice (now under WWM), due to legislative requirements there will be some changes to the way this advice is provided. The main changes for clients wishing to obtain superannuation-related advice are:

- You will need to sign an engagement letter with WWM;
- You will need to complete or sign off on a fact-find document to ensure we have a record of all the required knowledge about your circumstances (you can decide how much information to provide, and in many cases WCA will be able to pre-fill much of the information). If you qualify as a "sophisticated investor" (i.e. investable assets under your control of a minimum of $2.5 million or taxable income in excess of $250,000 p.a.) you may elect to be excluded from this requirement; and
- Our accounting staff will not be able to directly provide superannuation-related advice to you over the phone or in writing, unless signed off as a Record of Advice under WWM.

Currently, Mark Waterhouse is the authorised representative for WWM matters. Peter Muscolino, Kylie Symonds and Emilia Adorna are currently obtaining the required licencing to be authorised to provide this advice under WWM.

We appreciate your understanding and patience as we manage this legislative change imposed on all accountants.