VKC Tax News - May 2017 Special Edition

Budget 2017-2018

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VKC CONSULTING
Chartered Accountants

Level 25, 108 St George Terrace
PERTH WA 6000
W: www.vkcconsulting.com.au
E: info@vkcconsulting.com.au
P: (08) 6557 8972
F: (08) 6557 8999

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Housing Affordability Measures

The 2017-18 Budget contained a number of measures designed to improve Australians' access to secure and affordable housing across the housing spectrum. These measures include:

1. **Assisting first home buyers to build a deposit inside superannuation**; and

   Individuals will be able to make voluntary contributions into their superannuation of up to $15,000 per year and $30,000 in total, to be withdrawn subsequently for a first home deposit. The contributions can be made from 1 July 2017 and must be made within an individual's existing contribution caps.

   From 1 July 2018 onwards, the individual will be able to withdraw these contributions and their associated deemed earnings for a first home deposit. The withdrawals will be taxed at an individual's marginal tax rate, less a 30% tax offset.

   Under this new first home super saver scheme, both members of a couple can take advantage of this measure to buy their first home together. The scheme is intended to provide an incentive to enable first home buyers to build savings faster for a home deposit, by accessing the tax advantages of superannuation.

2. **Allowing older Australians to contribute downsizing proceeds into superannuation.**

   A person aged 65 or over can make a non-concessional contribution into superannuation of up to $300,000 from the proceeds of selling their principal residence. They must have owned their principal residence for at least 10 years. This measure will apply from 1 July 2018 and is available to both members of a couple for the same home.

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P: (08) 9325 3838

These contributions are in addition to existing rules and caps and are exempt from the age test, work test and the $1.6m total superannuation balance test for making non-concessional contributions.

3. Deductions for travel expenses related to inspecting, maintaining or collecting rent for a residential rental property will be disallowed from 1 July 2017.
4. Plant and equipment depreciation deductions will be limited to outlays actually incurred by investors in residential real estate properties from 1 July 2017.
5. Managed investment trusts will be able to invest in affordable housing, allowing investors to receive concessional tax treatment, provided certain conditions are met, including that the properties are let as affordable housing for at least 10 years.

6. <u>**The CGT discount for Australian resident individuals investing in qualifying affordable housing will be increased from 50% to 60% from 1 January 2018.**</u>

   The conditions to access the 60% discount are:

   - the housing must be provided to low to moderate income tenants
   - rent must be charged at a discount below the private rental market rate
   - the affordable housing must be managed through a registered community housing provider, and
   - the investment must be held for a minimum period of three years.

   This measure will apply from 1 January 2018.

7. Foreign and temporary tax residents will be denied access to the CGT main residence exemption.
8. The foreign resident CGT withholding rate will be increased to 12.5% and will apply to Australian real property and related interests valued at $750,000 or more.
9. An annual levy of at least $5,000 will be imposed on foreign owners of under-utilised residential property.
10. A 50% cap on foreign ownership in new developments will be introduced through a condition on new dwelling exemption certificates.

Tax Integrity Measures

1. <u>**The multinational anti-avoidance law will be amended to prevent the use of foreign trusts and partnerships in corporate structures for tax minimisation, with retrospective effect from 1 January 2016.**</u>

   The government will extend the scope of the multinational anti-avoidance law (*Income Tax Assessment Act 1936* s 177DA) to prevent the use of foreign trusts and partnerships in corporate structures to minimise Australian income tax.

Small Business

Small business CGT breaks to be tightened

Access to the small business CGT concessions will be tightened from 1 July 2017 to deny eligibility for assets which are unrelated to the small business.

The concessions assist owners of small businesses by providing relief from CGT on assets related to their business which helps them to re-invest and grow, as well as contribute to their retirement savings through the sale of the business. However, some taxpayers are able to access these concessions for assets which are unrelated to their small business, for instance through arranging their affairs so that their ownership interests in larger businesses do not count towards the tests for determining eligibility for the concessions.

The small business CGT concessions will continue to be available to small business taxpayers with aggregated turnover of less than $2m or business assets of less than $6m.

With retrospective effect from its date of commencement on 1 January 2016, the multinational anti-avoidance law will be amended so that it applies to:

- corporate structures that involve the interposition of partnerships that have any foreign resident partners
- trusts that have any foreign resident trustees, and
- foreign trusts that temporarily have their central management and control in Australia.

The amendments will ensure the integrity of the original policy intent.

2. Hybrid mismatch rules used by banks to minimise tax in cross border transactions will be prohibited from 1 January 2018.

3. **The government will provide $28.2m to the ATO to target serious and organised crime in the tax system.**

   This extends an existing measure by a further four years to 30 June 2021. This measure is estimated to have a gain to revenue of $408.5m and a net gain to the budget of $380.3m over the forward estimates period.

   The ATO's compliance work is currently funded to 30 June 2017.

4. **The taxable payments reporting system will be extended to contractors in the courier and cleaning industries from 1 July 2018.**

The Black Economy Taskforce has delivered an interim report to the government and the government has accepted the following recommendations for immediate action:

- extending the taxable payment reporting system (TPRS) to two high-risk industries — CLEANING AND COURIERS — to ensure payments made to contractors in these sectors are reported to the ATO
- banning the manufacture, distribution, possession, use or sale of sales suppression technology. This technology allows businesses to understate their income and has been identified as a threat to the integrity of the tax system, and
- providing funding for ATO audit and lodgment activities to better target black economy risks.

5. Sales suppression technology and software, used to understate business income by deleting electronic transactions, will be prohibited.
6. Funding for the ATO's Black Economy Taskforce audit and compliance activities will be extended until 30 June 2018.
7. A two-year public information campaign from 2016/17 will highlight the government's key tax integrity measures.

Small Business (Continued)

Instant asset write-off extended for 12 months

The $20,000 instant asset write-off for small business will be extended by 12 months to 30 June 2018, for businesses with an aggregated annual turnover of less than $10m.

Small businesses will be able to immediately deduct purchases of eligible depreciating assets costing less than $20,000 provided they are first used, or installed ready for use, by 30 June 2018. Only a few assets are ineligible (such as horticultural plants and in-house software).

Depreciating assets valued at $20,000 or more (which cannot be immediately deducted) can continue to be placed into the general small business pool (the pool) and depreciated at 15% in the first income year, and 30% for each income year thereafter. The pool can also be immediately deducted if the balance is less than $20,000 over this period (including existing pools).

Superannuation

1. Limited recourse borrowing arrangements (LRBAs) will be included in a member's total superannuation balance and transfer cap from 1 July 2017.

2. **Related party transactions to increase super reduced**

   Opportunities for members to use related party transactions on non-commercial terms to increase superannuation savings will be reduced from 1 July 2018.

   The non-arm's length income provisions will be amended to ensure expenses that would normally apply in a commercial transaction are included when considering whether the transaction is on a commercial basis.

3. The current tax relief for merging superannuation funds will be extended until 1 July 2020.

Individuals

1. **Medicare Levy to increase from 2.0% to 2.5%**

   The Medicare levy will be increased from 2.0% to 2.5% of taxable income from 1 July 2019. Other tax rates that are linked to the top personal tax rate, such as the fringe benefits tax rate, will also be increased.

2. Medicare levy – low income thresholds to increase from the 2016/17 year.
3. New HELP repayment thresholds and rates to be introduced.

DISCLAIMER

VKC Special Budget 2017-18 edition has been compiled using material from:

- Budget 2017-2018 papers (www.budget.gov.au)
- Tax Institute (www.taxinstitute.com.au)
- Institute of Chartered Accountants in Australia & New Zealand (www.charteredaccountantsanz.com)
- The Wolters Kluwer Tax Team (www.wolterskluwer.com)

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GST

Purchasers of newly constructed residential properties or new subdivisions will be required to remit the GST directly to the ATO as part of settlement from 1 July 2018.

Under the current law (where the GST is included in the purchase price and the developer remits the GST to the ATO), some developers are failing to remit the GST to the ATO despite having claimed GST credits on their construction costs. The new measure is an integrity measure to strengthen compliance with the GST law.

Double taxation of digital currency removed

The GST treatment of digital currency (e.g. Bitcoin) will be aligned with that of money from 1 July 2017. Digital currency is currently treated as intangible property for GST purposes. Consequently, consumers who use digital currencies as payment can effectively bear GST twice: once on its purchase, and again on its use in exchange for other goods and services subject to GST. This measure will ensure purchases of digital currency are gst free. Removing double taxation on digital currencies will remove an obstacle for the financial technology (fintech) sector to grow in Australia.