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TAXWISE BUSINESS NEWS

Budget Issue 2012-13

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The 2012-2013 Federal Budget

The 2012/13 federal Budget was handed down on 8 May 2012. The Budget was fiscally tight and designed to return the Budget to surplus.

You will need to be aware of many of the measures announced and take them into account when calculating your **anticipated tax liability**. You should also be aware of the abolition of previously announced measures, such as the **company tax rate cut** and the **tax breaks for green buildings** which will affect small business owners and individuals. Additionally, there are significant changes to the **tax loss measures**.

Below is a summary of the most significant measures announced in the Budget. However, in order to get the most specific advice for your circumstances, it is essential you consult with your tax adviser.

Income tax rates from 2012/13 financial year

From the 2012/2013 year, the tax-free threshold jumps to the first $18,200 of your income. You will be able to earn up to $20,542 before any income tax is payable, when taking into account the Low Income Tax Offset (LITO).

Tax scales	2012-2013		2015-2016	
	Threshold$	**Marginal rate**	**Threshold$**	**Marginal rate**
1st rate	18,201	19%	19,401	19%
2nd rate	37,001	32.5%	37,001	33%
3rd rate	80,001	37%	80,001	37%
4th rate	180,001	45%	180,001	45%
LITO	Up to $445	1.5% withdrawal rate on income over $37,000	Up to $300	1% withdrawal rate on income over $37,000
Effective tax-free threshold*	20,542		20,979	

Tax Changes affecting Individuals and families

New Measures starting 1 July 2012

- ***Net medical expenses tax offset –*** Currently, this allows you to offset 20% of your net medical expenses over $2,060. Net medical expenses are the medical expenses you have paid less any refunds from Medicare or a private health insurer.

From 1 July 2012 there will be two important changes to this offset:

1. The offset will be means tested. This means that **individuals** earning **more than $84,000** and **couples** and families earning **more than $168,000** will have to spend **$5000** on out-of-pocket medical expenses before they are eligible to make a claim.
2. And they will be able to offset only 10% of those costs over $5000, down from the current 20 %

NB People with income below the thresholds will not be affected.

- ***Combining of the "dependency tax offsets" -*** The eight dependency tax offsets will be consolidated into a single, streamlined and non-refundable offset. The offsets to be consolidated are the invalid spouse, carer spouse, housekeeper, housekeeper (with child), child-housekeeper, child-housekeeper (with child), invalid relative and parent/parent-in-law tax offsets.

  The new consolidated offset will be based on the highest rate of the existing offsets it replaces, resulting in an increased entitlement for many of those eligible for this measure. For taxpayers who can claim more than one offset amount in relation to multiple dependants who are genuinely unable to work will still be able to do so.

- ***Mature age worker tax offset -*** The mature age worker tax offset (MAWTO) will be phased out for taxpayers born on or after 1 July 1957. This will not affect any person who currently receives MAWTO. Access to the MAWTO will be maintained for taxpayers who are aged 55 years or older in the current income year (2011-12).

- ***Change to the marginal tax rate applicable to non – residents in the Seasonal Labour Mobility Program -*** the marginal tax rate for non-resident individuals participating in this Program will be reduced to 15%. Individuals in the Program will be taxed on all eligible income at a flat rate of 15%, and will no longer be required to pay the Medicare levy.

Other New Measures

- ***Increase of Medicare levy low income/below Age Pension age thresholds -*** The Medicare levy low income thresholds will be increased to $19,404 for individuals and $32,743 for families for the 2011/12 income year (ie from 1 July 2011).

  From 1 July 2011, the Government will also increase the Medicare levy threshold for single pensioners below Age Pension age to $30,451 to ensure that pensioners below Age Pension age do not pay the Medicare levy when they do not have an income tax liability. From 1 July 2012, the low-income threshold for pensioners below Age Pension age will then be fixed at the level applicable to seniors entitled to the Senior Australians Tax Offset.

- ***Flood levy further exemptions -*** Exemptions for the temporary flood and cyclone reconstruction levy will be extended to individuals who were eligible for an Australian Government Disaster Recovery Payment in 2010/11 as well as certain individuals affected by a natural disaster in 2011/12.

- ***SchoolKids Bonus to replace Education Tax Offset -*** From 1 January 2013, the new "SchoolKids Bonus" will replace the Education Tax Refund. Under the SchoolKids Bonus, an annual payment will be available for schoolchildren at primary school level of $410 and secondary school level of $820. The bonus will be paid to eligible families in two equal instalments in January and July each year. The Education Tax Refund will be paid out in

full to eligible families in June 2012 in view of transitioning to the new SchoolKids Bonus system.

Measures not proceeding

- ***Standard Deduction of $500 -*** The Government will not proceed with the standard deduction of $500 for work-related expenses that was announced in the 2010-11 Budget.

- ***50% Interest income tax discount -*** The Government will not proceed with the 50% tax discount for interest income that was announced in the 2010-11 Budget.

Tax Changes affecting Companies

New Measures

- ***Loss carry-back –*** Starting in the 2012-13 income year, companies (and entities taxed like companies) will be able to carry back up to $1 million of tax losses incurred in the 2012-13 year to offset against tax paid in the 2011-12 income year. From the 2013-14 income year, tax losses will be able to be carried back and offset against tax paid up to two years earlier.

- ***New limited recourse debt arrangements –*** A 'limited recourse debt' is a debt in which the creditor has limited claims on the loan in the event of default. Starting from 7.30pm (AEST) on 8 May 2012, the definition of limited recourse debt will be amended to include arrangements where the creditor's right to recover the debt is effectively limited to the financed asset or security provided.

Measures not proceeding

- ***Lowering the company tax rate -*** the proposed measure to lower the company tax rate in the 2013-14 income year (and from 2012-13 income year for small businesses) will not proceed.

- ***Green Buildings tax breaks –*** the Tax Breaks program for Green Buildings will not go ahead.

Tax changes affecting Debt

- ***Bad Debt write-offs*** - starting from 7.30pm (AEST) on 8 May 2012, no deduction will be allowed for a bad debt written off owing from a debtor who is a related party, but is not part of the same tax consolidated group. Any corresponding gain arising to the debtor will not be taxed as well. This will ensure consistent tax treatment of bad debts between related parties whether or not they are part of the same tax consolidated group.

Capital Gains Tax Changes

- ***Amendments to beneficial interests -*** Changes will be made to the application of the scrip-for-scrip roll-over and small business concessions to trusts, superannuation funds and life insurance companies. This is to ensure the provisions that relate to absolutely entitled beneficiaries, bankrupt individuals, security providers and companies in liquidation interact appropriately with the CGT provisions and with the connected entity test in the small business entity provisions. Taxpayers may apply these changes from the 2008-09 income. Otherwise, the measures will apply from the date of Royal Assent of the new provisions.

  This measure will also ensure that consequential impacts on the *Wine Equalisation Tax Act 1999* (WET Act) through the operation of the changes to the "connected entity" test in the small business entity provisions will also apply to wine producers.

- ***Revenue asset and trading stock rollovers for interposed companies –*** starting from 7.30pm (AEST) on 8 May 2012, these rollovers that apply to the exchange of interests in a company or unit trust for shares in another company will be broadened to be available for all interests that qualify for the general conditions of each of the rollovers, rather than only shares in a tax consolidated group. Replacement shares in the interposed company will need to maintain the character of the original revenue asset or trading stock asset that was exchanged.

- ***Scrip-for-scrip rollover strengthened -*** starting from 7.30pm (AEST) on 8 May 2012, the scrip-for-scrip rollover integrity measures will be strengthened to ensure taxpayers cannot get around the provisions by holding interests to acquire ownership rights (eg convertible preference shares), rather than shares themselves, indefinitely defer the CGT liability that would have otherwise arisen on the on-sale of the target entity, broaden the scope of the rules that apply to intra-group debt and ensure these integrity provisions apply appropriately to trusts.

- ***Temporary loss relief to facilitate super reforms –*** amendments will be made to ensure income tax considerations do not prevent mergers of superannuation funds or transfers of existing default members' balances and relevant assets in the transition to Stronger Super and MySuper. Relief will be available for mergers of complying superannuation funds from 1 June 2012 to 1 July 2017 and the roll-over and relief available for mandatory transfers of default members' balances and relevant assets will be available from 1 July 2013 to 1 July 2017.

- ***CGT exemption for compensation payments and insurance policies -*** effective from the 2005-06 income year, the CGT rules will be amended to disregard the CGT consequences where a taxpayer receives compensation, damages or certain insurance proceeds indirectly through a trust. This will ensure that a taxpayer will have the same CGT outcome as a taxpayer who receives such proceeds directly. It will also ensure that insurance policies owned by superannuation funds that were treated as being exempt from CGT prior to the 2011-12 Budget changes to compensation payments and insurance policies continue to be exempt from CGT.

- ***CGT and Deceased Estates –*** refinements to the CGT provisions will be made to the 2011-12 Budget measure to ensure the proper functioning of these provisions in relation to deceased estates in respect of the following:
    - ensuring the deceased's income tax return does not need to be amended as the taxing point will be recognised by the entity transferring the asset;
    - modifying the application dates for two of the minor changes announced in the 2011-12 Budget to ensure taxpayers are not disadvantaged; and
    - broadening the scope of the integrity provisions to also apply to assets passing through survivorship.

Fringe Benefits Tax Changes

- ***Living Away From Home Allowance (LAFAH) –*** the tax concession for LAFHA will be limited to employees living away from a home they maintain in Australia and will only be available for a maximum of 12 months. The changes will apply from 1 July 2012 for arrangements entered into after 7:30pm (AEST) on 8 May 2012, and from 1 July 2014 for arrangements entered into prior to such time.

- ***Airline transport fringe benefits –*** for airline transport fringe benefits provided after 7:30pm (AEST) on 8 May 2012, their taxable value will be the market value of the benefits provided and no longer the "stand-by" value which is no longer relevant as airlines now use discounted pricing to optimise passenger levels.

GST Changes

- ***GST-free health supplies –*** the Government's measure introduced in the 2011-12 Budget will be further amended to ensure health supplies from a health care provider paid for by compensation will be GST-free if the underlying supply from the health care operator is also GST-free.

- ***Reduced GST tax credits –*** from 1 July 2011, access to reduced GST tax credits will be restored for all credit unions who rebrand as "banks".

- ***GST compliance activities -*** additional funding will be provided to ensure GST compliance activities undertaken by the ATO will be extended for a further two years until 2015-16.

- ***Cross-border transactions –*** there will be minor clarifications to the 2010-11 Budget measure in relation to cross-border transactions, including clarification of the definition of "permanent establishment" for GST purposes.

Superannuation changes

- ***Increasing concessional contributions caps –*** the measure to increase the concessional contribution caps (also known as pre-tax contributions) for individuals over 50 with low superannuation balances announced in the 2010-11 Budget has been deferred and will now start on 1 July 2014 instead of 1 July 2012. Under this higher concessional contributions cap, individuals aged 50 and over with superannuation balances below $500,000 will be able to contribute up to $25,000 more in concessional contributions. The two-year deferral means that for the 2012-13 and 2013-14 income years, all individuals will be able to make concessional contributions of up to $25,000 per year as permitted under the general concessional contributions cap. In 2014-15, the general cap is likely to increase to $30,000 through indexation, and the higher cap would then commence at $55,000.

- ***Higher contributions tax for higher income earners -*** From 1 July 2012, individuals with income greater than $300,000 will have the tax concession on their contributions reduced from 30% to 15% (excluding the Medicare levy). That is, the flat superannuation contributions tax rate will increase from a rate of 15% to a rate of 30%.

  The definition of "'income" for the purpose of this measure includes concessional superannuation contributions. If an individual's income, excluding their concessional superannuation contributions, is less than the $300,000 threshold, but when their concessional contributions are included they exceed the $300,000 threshold, the reduced tax concession will only apply to the part of the contributions in excess of the threshold.

  The reduced tax concession will not apply to concessional contributions which exceed the concessional contributions cap and are therefore subject to "excess contributions tax" (which are taxed at the top marginal rate).

- ***Employment termination payment tax offsets -*** from 1 July 212, the tax offset (also known as rebates) will be limited so that only that part of an affected Employment Termination Payment (ETP), such as a golden handshake, that takes a person's total annual taxable income (including the ETP) to no more than $180,000 will receive the ETP tax offset. Amounts above $180,000 (known as the "whole-of-income cap"), will be taxed at marginal rates. This cap will complement the existing ETP cap (which will be $175,000 in 2012-13, indexed) which ensures that the tax offset only applies to amounts up to the ETP cap.

Tax changes affecting Non-residents

- ***Marginal tax rates for non-residents –*** the marginal tax rates and thresholds as apply to non-residents will be amended from 1 July 2012. The tax rate that will apply is 32.5% (applying to taxable income below $80,000.,From 1 July 2015, this rate will then rise to 33%.

- ***No CGT discount for non-residents -*** starting from 7.30pm (AEST) on 8 May 2012, the CGT discount will no longer be available to non-residents for capital gains accrued after this time.

- ***Managed Investment Trust withholding –*** withholding tax is applied to certain Managed Investment Trust (MIT) income paid to a non-resident of Australia. The withholding rate that applies to managed investment trusts will be increased from 7.5% to 15% starting from 1 July 2012.

Other measures

- **Clean Energy Finance Corporation -** the Clean Energy Finance Corporation will be exempt from income tax effective from 1 July 2013. This should enhance the Corporation's ability to finance investments in the commercialisation and deployment of renewable energy and enabling technologies, energy efficiency and low-

emissions technologies.

- **Wine producer rebate -** From 1 July 2012, the wine producer rebate will be amended to ensure that wine producers will not be able to claim multiple rebates for the same quantity of wine.

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