VICCA NEWS

11 May 2011

Special points of interest:

- A Summary of the major revenue measures proposed n the budget
- Measures in more detail

Company Details

Vicca Chartered Accountants

Level 9
97 Creek Street
Brisbane Qld 4000

GPO Box 3015
Brisbane Qld 4001

Ph: (07) 3012 8748
Fax: (07) 3012 8700
Email: noe@viccaca.com

www.viccaca.com

2011-2012 Budget

A summary of the major revenue measures proposed in the Budget include:

- significant tax changes affecting charities;
- minors will no longer be entitled to low income tax offset on unearned income;
- superannuation: minimum pension drawdown's - 25% reduction;
- small businesses to get tax deduction of $5,000 for motor vehicles;
- FBT valuation method for cars. New rate to be phased in over 4 years (Refer item 2 below);
- amendments re company loss recoupment rules;
- GST amendments: property in possession of mortgagee;
- increase in Medicare levy thresholds;
- New flood levy (Refer item 1 below)
- Government to overcome High Court *Anstis* decision on self-education expenses;
- dependant spouse rebate for under 40s to be phased out;
- early access to be allowed to FMDs.

Measures in more detail

- The Government will abolish the Entrepreneurs' Tax Offset
- Small business will benefit from the Government's small business tax reform package, including a new instant write-off for the first $5000 of a motor vehicle, to commence from the 2012--13 income year.
- The Government will phase out the dependent spouse tax offset (DSTO) for taxpayers with a dependent spouse born on or after 1 July 1971.
- The Government will increase the amount of the low income tax offset (LITO) that is delivered to low and middle income earners through their regular pay during the year from 50 per cent to 70 per cent of their total entitlements.
- The Government will ensure that the scrip for scrip roll-over integrity provisions that apply to individuals and companies also apply appropriately to trusts, superannuation funds and life insurance companies.
- The Government will exempt from capital gains tax (CGT) any gains or losses arising from a right to a financial incentive granted to taxpayers under an Australian government (Commonwealth, State or Territory) scheme that encourages them to acquire renewable resource assets (for instance, photovoltaic solar cells or solar hot water systems) or for their agreeing to preserve a part of Australia's environmental amenity (for instance, for refraining from removing

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- Measures in more detail—Continued

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- The Government will extend the 2009-10 Budget measure that provides a capital gains tax (CGT) main residence exemption to special disability trusts (SDTs) with effect for income tax assessments for the 2006-07 and later income years.
- The Government will remove the trading stock exception to the 'capital gains tax (CGT) primary code rule' for complying superannuation entities for specified assets, with effect from 7.30 pm (AEST) 10 May 2011. A small number of complying superannuation entities are seeking to treat shares as trading stock, so as to deduct losses on their shares against income other than capital gains.
- The Government will make a series of minor amendments to the income tax law to ensure the proper functioning of the capital gains tax (CGT) and associated provisions.
- Farm Management Deposits — early access for primary producers suffering natural disasters and improved administration arrangements
- The Government will extend the fringe benefits tax (FBT) exemption for domestic fly-in fly-out arrangements to cover Australian residents working in remote areas overseas. This measure will apply from 1 July 2009 and has no revenue impact.
- Fringe benefits tax — reform of the car fringe benefit rules. The Government will reform the current 'statutory formula' method for determining the taxable value of car fringe benefits by replacing the current statutory rates with a single rate of 20 per cent that applies regardless of the distance travelled.
- GST — treatment of new residential premises. The Government will amend the goods and services tax (GST) law to protect the GST revenue base and to ensure the law applies appropriately to supplies of new residential premises This measure restores the policy intent of the law following a recent Federal Court decision (*Commissioner of Taxation v Gloxinia Investments (Trustee)* [2010] FCAFC 46) which found that the sale by developers of certain newly constructed residential premises to owner-occupiers and investors was input taxed rather than taxable. The measure ensures that GST applies to the value added to real property by developers constructing new residential premises.
- GST — treatment of property in possession of a mortgagee. The Government will amend the goods and services tax (GST) law in relation to the mortgage lending sector to clarify its operation and reduce compliance costs, with effect from 1 July 2012. This measure has no revenue impact.
- GST —The Government will extend the current goods and services tax (GST) instalment system to allow access for small businesses that are in a net refund position. The measure will come into effect following Royal Assent of the enabling legislation.

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Special points of interest:

- Measures in more detail—Continued

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2011-2012 Budget

- Company loss recoupment rules - The Government will improve the operation of the company loss recoupment rules by making it easier for companies to satisfy the continuity of ownership test in certain circumstances, with effect from the 2011-12 income year.
- The Government will introduce a temporary flood and cyclone reconstruction levy from 1 July 2011 to contribute towards the cost of rebuilding flood and cyclone affected regions. Those taxpayers with a taxable income in 2011-12 of $50,000 or less will not pay the levy. Taxpayers with taxable income between $50,001 and $100,000 will pay 0.5 per cent of their taxable income above $50,000. Taxpayers with taxable income over $100,000 will pay 0.5 per cent of their taxable income between $50,001 and $100,000 and 1.0 per cent of their taxable income over $100,000.
- Not-for-profit sector reforms —The Government will reform the tax concessions provided to not-for-profit (NFP) entities to ensure they are targeted only at those activities that directly further a NFP's altruistic purposes. The new arrangements will commence on 1 July 2011 and will initially affect only new unrelated commercial activities that commence after 10 May 2011.
- Not-for-profit sector reforms — introducing a statutory definition of 'charity'. The Government will consult on and introduce a statutory definition of 'charity' for all Commonwealth laws to take effect from 1 July 2013.
- Personal income tax — removing minors' eligibility for low income tax offset on unearned income. The Government will remove the ability of minors (children under 18 years of age) to access the low income tax offset (LITO) to reduce tax payable on their unearned income, such as dividends, interest, rent, royalties and other income from property, with effect from 1 July 2011.
- Reduction in the minimum payment amounts for account-based pensions in 2011-12. Minimum payment amounts for account-based, allocated and market linked (term allocated) pensions will be reduced by 25 per cent for 2011-12 and will return to normal in 2012-13.
- Small business depreciation — accelerated initial deduction for motor vehicles. The Government will allow small businesses to claim up to $5,000 as an immediate deduction for motor vehicles, with effect for vehicles acquired from the 2012-13 income year.
- The Government has previously announced that any new business asset worth less than $5,000 can be written off immediately from the 2012-13 income year.

AUSTRALIA

Australian Government

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2011-2012 Budget

- Superannuation contribution caps — operation of the higher cap for over 50s.The Government will set the higher concessional superannuation contributions cap for eligible individuals aged 50 and over with total superannuation balances of less than $500,000, due to apply from 1 July 2012, to $25,000 above the general concessional cap. This measure clarifies the operation of the higher cap for the over 50s which was introduced in the 2010-11 Budget, and means those eligible Australians over 50 will be able to contribute $25,000 more per year than other workers.

- Tax Breaks for Green Buildings —The Government has deferred the start date of the Tax Breaks for Green Buildings measure to 1 July 2012 in order to allow more time to consider stakeholder proposals on the most effective way to implement the program.

- The director penalty regime DPN will be extended to superannuation guarantee amounts, making directors personally liable for their company's failure to pay employee superannuation;

  i) the Australian Taxation Office (ATO) will be given the power to commence recovery against directors under the director penalty regime, without providing a 21 day grace period, for certain unpaid company liabilities that remain unreported after three months of becoming due; and

  ii) in certain circumstances directors and associates of directors will be prevented from obtaining credits for withheld amounts in their individual tax returns where the company has failed to pay withheld amounts to the ATO.

- The Government will amend the income tax law to ensure that trust beneficiaries can continue to use the primary production averaging and farm management deposits provisions in a loss year, with effect from 1 July 2010. The measure will continue the position that existed before the High Court's decision in *Commissioner of Taxation v Bamford* (2010) 240 CLR 481 (Bamford) and the Australian Taxation Office's (ATO) consequent withdrawal of Taxation Ruling TR 95/29 (about the availability of income averaging to a beneficiary of a trust, the trustee of which carries on a business of primary production).

- From 1 July 2011, the Government will increase the proportion of the low income tax offset (LITO) that is delivered through workers' week-to-week pay packets from 50% to 70%.

Australian Taxation Office

Special points of interest:

- Measures in more detail—Continued

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- The Government will provide eligible individuals who breach the concessional contributions cap by up to $10,000 with a one-off option to request that these excess contributions be refunded to them. This new refund option will only apply to first time breaches from 1 July 2011.
- A series of minor amendments to the income tax law to ensure the proper functioning of the CGT and associated provisions
- Ensuring that the **roll-over for the exchange of shares** in one company for shares in another company operates properly, so that there is deferral of a profit or loss where the original shares are held on revenue account at the time of the exchange
- Amending the **roll-over for certain disposals of assets by a trust** to allow roll-over relief to apply where a transferee company or trust holds rights, just before the disposal or transfer time, associated with a deed or similar document that is designed to facilitate the transfer of assets into the company or trust.
- Ensuring that gains and losses arising from **life insurance policies** that are generally exempted from CGT are not then taxed under the ordinary income tax provisions by removing the exception to the CGT primary code rule for such gains and losses.
- Legislating the current Tax Office practice of allowing a **testamentary trust** to distribute an asset of the deceased person without a CGT taxing point occurring. The income tax law in relation to **deceased estates** will also be rewritten using a principle based format and minor technical issues relating to deceased estates fixed.
- Provide the Commissioner with a discretion to extend the two-year ownership period in which the trustee of a deceased estate or beneficiary of such an estate must dispose of their interest in the **deceased's dwelling** to access a full capital gains tax main residence exemption
- Ensure that for the purposes of the CGT concession stakeholder test in the **small business concessions**, taxpayers can have a non-zero direct small business participation percentage where: (a) shares in a company are held jointly by taxpayers; and (b) a discretionary trust has not made a distribution in an income year where the trust had a tax loss or no net income for that year.

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Special points of interest:

- Flood Levy

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2011-2012 Budget

Item 1 – Flood Levy

The current resident tax thresholds on the LHS and the new tax rate including the flood levy for the 2011-12 financial year (for those subject to the flood levy) RHS:

Tax threshold levels - flood levy comparison			
Current, and from 1 July 2011 for those NOT subject to the flood levy		*2011-12 (for those subject to the flood levy)*	
Taxable income ($)	*Rate (%)*	*Taxable income ($)*	*Rate (%)*
0 - 6,000	0	0 - 6,000	0
6,001 - 37,000	15	6,001 - 37,000	15
37,001 - 80,000	30	37,001 - 50,000	30
80,001 - 180,000	37	50,001 - 80,000	30.5
180,001 +	45	80,001 - 100,000	37.5
		100,001 - 180,000	38
		180,001 +	46
Note: The rates above exclude Medicare levy.			

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Special points of interest:

- FBT

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Item 2 - FBT

These FBT changes will apply to new vehicle contracts entered into after 7:30pm (AEST) on 10 May 2011, and it will be phased in over 4 years as follows:

FBT statutory rate method					
	Statutory rate (x cost of car to determine person's car fringe benefit)				
Distance travelled during FBT year (1 April - 31 March)	*Existing contracts (%)*	*New contracts from 10 May 2011 (%)*	*New contracts from 1 April 2012 (%)*	*New contracts from 1 April 2013 (%)*	*New contracts from 1 April 2014 (%)*
0 - 15,000km	26	20	20	20	20
15,000 - 24,999km	20	20	20	20	20
25,000km - 40,000km	11	14	17	20	20
More than 40,000km	7	10	13	17	20

It is understood the people who use their vehicle for a significant amount of work-related travel will still be able to use the "operating cost" (or "log book") method.

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ITEM 3 – Medical Benefit rebates for Singles and couples – Hidden budget measure to reintroduce failed Bills

Fairer Private Health Insurance Incentives Bill 2009 [No 2] proposed to introduce 3 new "Private Health Insurance Incentive Tiers":

Tier 1: Singles earning between $75,001 and $90,000 and couples/families earning between $150,001 and $180,000 would receive a 20% private health insurance rebate if they are aged up to 65 years (25% if they are aged over 65, and 30% if they are aged 70 years or over).

Tier 2: Singles earning between $90,001 and $120,000 and couples/families earning between $180,001 and $240,000 would receive a 10% private health insurance rebate if they are aged up to 65 years (15% if they are aged over 65, and 20%if they are aged 70 years or over).

Tier 3: Singles earning above $120,000 and couples/families earning above $240,000 would not receive any private health insurance rebate, regardless of age.

Special points of interest:

- Medical Benefit rebates for Singles and couples - Hidden budget measure to reintroduce failed Bills

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