



Federal Budget 2018

student union

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Welcome to the PKF report on the third budget handed down by the Turnbull / Morrison government.

This budget is the Treasurer's last before the next Federal Election and it clearly looks to the future with measures generally in line with the Government's longer term fiscal plan.

The budget is focused on a "coming back to balance" and further strengthening of Australia's economic position, projecting a return surplus earlier than expected, in 2019-20.

With an eye on the future, the Treasurer outlined a three step personal tax reform plan commencing with modest tax cuts for middle and low income earners in the next financial year. Over the following two financial years measures to extend the 32.5% tax bracket and ultimately remove the 37% bracket will be enacted.

The government reaffirmed its support for small and medium business, extending the small business asset immediate write-off again and remaining committed to its 10-year enterprise plan, including the previously announced corporate tax cuts.

Numerous integrity measures were announced, including a tightening of the Research & Development Tax Incentive program, strengthening of Division 7A rules on the treatment of UPEs, restrictions on certain trust arrangements and the disallowance of deductions associated with vacant land and on non-compliant payments to employees and contractors.

The black economy is the primary target of the budget with additional crackdowns designed to increase reporting and monitoring of high risk sectors, further funding for ATO activity which coupled with stronger anti-phoenix laws, is expected to fund much of the incentive-based measures.

This is a budget selling a message of honesty and fairness, supporting infrastructure and new development. The biggest winners are 'average' taxpayers, drivers, small business and potentially pensioners. The biggest losers include tax cheats, criminals and foreign business. As expected though, there was little in this budget that could be labeled 'big ticket tax reform'. It is likely those measures will have to wait until after the election.

Individuals

Seven-year Personal Income Tax Plan to be introduced

A seven-year Personal Income Tax (PIT) Plan will be implemented in three steps, to introduce a low and middle income tax offset, to provide relief from bracket creep and to remove the 37% PIT bracket.

This measure builds on the 2016/17 Budget measure that extended the 32.5% PIT bracket from \$80,000 to \$87,000 from 1 July 2016.



PKF Comment

These measures are consistent with previous budget announcements. The benefits of these measures are instant (from 1 July 2018) and will predominantly provide relief to low and middle income earners. Further the measures also protect middle income earners by increasing the top threshold of the 32.5 per cent bracket to \$90,000.

Given that 2024 is the final date for the big ticket changes, it will be interesting to see if any further changes occur.

Step 1: Low and middle income tax offset to be introduced

A low and middle income tax offset (LMITO) will be introduced as a non-refundable tax offset of up to \$530 pa to resident low and middle income taxpayers from 2018/19 to 2021/22.

The LMITO will provide a benefit of up to \$200 for taxpayers with taxable income of \$37,000 or less. For taxable incomes between \$37,000 and \$48,000, the value of the offset will increase at a rate of three cents per dollar to the maximum benefit of \$530. Taxpayers with taxable incomes from \$48,000 to \$90,000 will be eligible for the maximum benefit of \$530. For taxpayers with taxable incomes from \$90,001 to \$125,333, the offset will phase out at a rate of 1.5 cents per dollar.

The LMITO will be received as a lump sum on assessment after an individual lodges their tax return. The benefit of the LMITO is in addition to the existing low income tax offset.

Step 2: Relief from bracket creep for middle income taxpayers

Middle income taxpayers will be provided relief for bracket creep in phases.

From 1 July 2018, the top threshold of the 32.5% PIT bracket will be increased from \$87,000 to \$90,000.

From 1 July 2022, the low income tax offset will be increased from \$445 to \$645, and the 19% PIT bracket will be increased from \$37,000 to \$41,000 to lock in the benefits of the LMITO in Step 1. The increased low income tax offset will be withdrawn at a rate of 6.5 cents per dollar for incomes between \$37,000 and \$41,000, and at a rate of 1.5 cents per dollar for incomes between \$41,000 and \$66,667.

From 1 July 2022, the top threshold of the 32.5% PIT bracket will be further increased from \$90,000 to \$120,000.

Step 3: Removing the 37% personal income tax bracket

The 37% PIT bracket will be removed from 1 July 2024.

From 1 July 2024, the top threshold of the 32.5% PIT bracket will be increased from \$120,000 to \$200,000. Taxpayers will pay the top marginal tax rate of 45% for taxable incomes exceeding \$200,000, and the 32.5% PIT bracket will apply to taxable incomes of \$41,001 to \$200,000. This is illustrated in the table below.

Medicare levy – low income thresholds to increase

The Medicare levy low-income thresholds for singles, families, seniors and pensioners will be increased from the 2017/18 income year.

The threshold for singles will increase to \$21,980 (up from \$21,655 in 2016/17). The family threshold will increase to \$37,089 (up from \$36,541 in 2016/17). For single seniors and pensioners, the threshold will increase to \$34,758 (up from \$34,244 in 2016/17). The family threshold for seniors and pensioners will increase to \$48,385 (up from \$47,670 in 2016/17). For each dependent child or student, the family income thresholds increase by a further \$3,406 (up from \$3,356 in 2016/17).

Retaining the Medicare levy at 2%

The 2017/18 Federal Budget measure to increase the Medicare levy from 2% to 2.5% of taxable income from 1 July 2019 will not proceed.

Consequential changes to other tax rates that are linked to the top personal income tax rate, such as the fringe benefits tax rate, will also not proceed.

Income tax exemption for certain veteran payments

Supplementary amounts (such as pension supplement, rent assistance and remote area allowance) paid to a veteran, and full payments (including the supplementary component) made to the spouse or partner of a veteran who dies, are exempt from income tax from 1 May 2018.

| Rate | Thresholds in 2017/18 | New thresholds in 2024/25 |
|-------|-----------------------|---------------------------|
| Nil | Up to \$18,200 | Up to \$18,200 |
| 19% | \$18,201 – \$37,000 | \$18,201 – \$41,000 |
| 32.5% | \$37,001 – \$87,000 | \$41,001 – \$200,000 |
| 37% | \$87,001 – \$180,000 | – |
| 45% | Above \$180,000 | Above \$200,000 |



Tax Integrity — schemes to license an individual's fame or image targeted

From 1 July 2019, all remuneration (including payments and non-cash benefits) provided for the commercial exploitation of a person's fame or image will be included in the assessable income of that individual. This integrity measure will ensure that high profile individuals are no longer able to take advantage of lower tax rates by licensing their fame or image to another entity.

High profile individuals (such as sportspeople and actors) can currently license their fame or image to another entity such as a related company or trust. Income for the use of their fame or image goes to the entity that holds the licence. This creates opportunities to take advantage of different tax treatments and facilitates misreporting and incorrect tax outcomes.

Funding to ATO for compliance activities targeting individual taxpayers

The ATO will be provided with \$130.8m from 1 July 2018 to increase compliance activities targeting individual taxpayers and their tax agents.

This measure will continue four income matching programs that would otherwise terminate from 1 July 2018 to allow the ATO to detect incorrect reporting of income, such as foreign source income of high wealth individuals. The measure will also provide funding for new compliance activities, including additional audits and prosecutions, improving education and guidance materials, pre-filling of income tax returns and improving real time messaging to tax agents and individual taxpayers to deter over-claiming of entitlements, such as deductions by higher risk taxpayers and their agents.



Income tax

R&D tax incentive changes

The calculation for entities claiming the R&D tax incentive will change commencing for income years beginning on or after 1 July 2018. Also, a maximum cash refund for “smaller” R&D claimants will be capped at \$4m per financial year. A “smaller” R&D claimant is an entity with aggregated annual turnover below \$20m.

The changes for calculating the R&D tax incentive are based around an “R&D intensity percentage” for each entity. The R&D intensity percentage is based on the amount of R&D related expenditure as a percentage of total company expenditure. The lower the R&D intensity percentage for the entity, the lower the maximum available tax offset.

Currently there is a limit on which a company can claim the accelerated rates for the R&D tax incentive. Above this limit, the R&D tax incentive can still be claimed but only at the entity’s corporate tax rate. It is proposed in the budget that the maximum eligible expenditure to get the concessional rates will rise from \$100m per entity per year to \$150m.



PKF Comment

Going forward, companies need to develop a meaningful R&D strategy that links to specific market opportunities and builds their IP assets into

a long term and bankable competitive advantage to compete on a global stage. Innovation continues to underpin the creation of economic value for SMEs. The Government continues to support R&D but this support is not unlimited.

Companies with annual turnover above \$20m

Currently: A 38.5% non-refundable tax offset is available with a minimum eligible R&D expenditure of \$20,000 pa.

Proposed: Four levels of non-refundable tax offset based on an R&D intensity percentage and the entity’s corporate tax rate.

- 40% or 42.5% offset if more than 10% of total expenditure relates to R&D
- 36.5% or 39% offset if R&D intensity percentage is between 5% and 10%
- 34% or 36.5% offset if R&D intensity percentage is between 2% and 5%
- 31.5% or 34% offset if R&D intensity percentage is between 0% and 2%.



Companies with annual turnover less than \$20m

Currently: A 43.5% refundable tax offset is available with a minimum eligible R&D expenditure of \$20,000 pa.

Proposed: A refundable tax offset of 13.5% percentage points above the entity's corporate tax rate. This will mean no change for some companies as the refundable tax offset will remain 43.5%. However, "base rate entities" which have a lower corporate tax rate of 27.5% will now have a maximum refundable tax offset of 41%. Also, it is proposed that the maximum cash refund available is \$4m. Any additional refunds past this amount can be carried forward to later income years.

\$20,000 immediate asset write-off extended

Businesses with an aggregated turnover of less than \$10m will continue to have access to the \$20,000 instant asset write-off for another 12 months. A small business will get an immediate deduction for assets costing less than \$20,000, and installed and ready for use before 30 June 2019.

The current rules regarding accelerated depreciation for small businesses remain in place. Therefore, assets (including grouped assets purchased as a set) costing more than \$20,000 and installed ready for use prior to 30 June 2019 will need to be pooled at an initial rate of 15% in the first year. Also, small business depreciation pools valued under \$20,000 as at 1 July 2018 can be immediately written off in the 2018/19 income year.

The current “lock out” laws for simplified depreciation rules, which prevent small businesses from re-entering the pooling rules for five years if they opt out, will continue to be suspended until 30 June 2019.



PKF Comment

This is a welcome change for small business entities with an aggregate turnover of less than \$10 million. The extension to 30 June 2019 and the turnover will allow a significant number of small business entities to access the instant asset write-off. However, cash flow will be a key indicator for the small business entities and whether or not they utilise this measure.

Tax integrity — Div 7A UPE rule strengthened; major reform delayed

Division 7A of ITAA 1936 will be amended to clarify the circumstances in which it applies to unpaid present entitlements (UPEs) — where a related private company becomes entitled to a share of trust income as a beneficiary, but has not been paid that amount. The amendments will apply from 1 July 2019.

Division 7A is an integrity rule that requires benefits provided by private companies to related taxpayers to be taxed as dividends unless they are structured as Div 7A complying loans or another exception applies. This measure will ensure the UPE is either required to be repaid to the private company over time as a complying loan or subject to tax as a dividend.

The start date of targeted amendments to

Div 7A will be deferred from 1 July 2018 to 1 July 2019. Those reforms, announced in the 10-Year Enterprise Tax Plan in the 2016/17 Budget, will enable all Div 7A amendments to be progressed as part of a consolidated package.



PKF Comment

Dealing with loans from private companies continues to cause compliance difficulties with no sign of the previously promised simplifications to this regime. The need for such measures are likely to continue as the gap between corporate tax rates and individual tax rates grows over time as a result of the Government’s proposed tax cuts for businesses.

Tax integrity — deductions for vacant land to be denied

From 1 July 2019, tax deductions will not be allowed for expenses associated with holding vacant land. This is an integrity measure to address concerns that deductions are being improperly claimed for expenses, such as interest costs related to holding vacant land where the land is not genuinely held for the purpose of earning assessable income. It will also reduce tax incentives for land banking, which deny the use of land for housing or other development.

The measure will apply to land held for residential or commercial purposes. However, the “carrying on a business” test will generally exclude land held for commercial development.

Deductions that are denied will not be able

to be carried forward for use in later income years. Expenses for denied deductions that would ordinarily be a cost base element (such as borrowing expenses and council rates) may be included in the cost base of the asset for capital gains tax (CGT) purposes when sold. However, deductions denied for expenses that would not ordinarily be a cost base element would not be able to be included in the CGT cost base.

The measure will not apply to expenses associated with holding land that are incurred after:

- a property has been constructed on the land, it has received approval to be occupied and is available for rent, or
- the land is being used by the owner to carry on a business, including a business of primary production.

Tax integrity — no small business CGT concessions for assignment of partnership rights

The small business capital gains tax (CGT) concessions will no longer be available to partners that alienate their income by creating, assigning or otherwise dealing in rights to the future income of a partnership.

The small business CGT concessions assist owners of small businesses by providing relief from CGT on the disposal of assets related to their business. However, some taxpayers, including large partnerships, are able to inappropriately access these concessions in relation to their assignment of a right to the future income of a partnership to an entity, without giving that entity any role in the partnership.

The measure applies from 7:30pm (AEST)

on 8 May 2018 for small business CGT concessions in relation to the assigned rights.

However, the small business CGT concessions themselves will not be amended. The concessions will continue to be available to eligible small businesses with an aggregated annual turnover of less than \$2m or net assets less than \$6m.



PKF Comment

Consistent with the recent withdrawal of ATO guidance, a previously popular arrangement whereby partners (principally in legal and accounting firms) undertook 'Everett' assignments to assign rights to future partnership income to other parties (primarily to take advantage of 'income-splitting') will no longer be able to claim the small business CGT concessions on the initial assignment. This will increase the initial tax cost of such planning, making it less attractive.

Non-compliant payments to employees and contractors no longer deductible

Businesses will no longer be able to claim deductions for payments to their employees where they have not met their PAYG obligations. This includes where the employer is required to withhold PAYG from gross payments, but fails to report or remit it to the ATO.

Additionally, the deduction for businesses on

certain payments to contractors which have not met PAYG obligations will be removed. Currently, if a contractor does not quote an ABN in a business-to-business transaction, the purchaser is required to withhold an amount at the top marginal tax rate and remit this amount to the ATO. Failure to do this correctly will render the entire payment non-deductible.

Both of these measures will take effect from 1 July 2019.



PKF Comment

Perhaps triggered by the recent Plutus payroll case and improvements data-matching capabilities, businesses who fail to withhold appropriately from payments will not be entitled to a deduction.

Although this measure sounds significant, the anticipated small gain to revenue over the forward estimate periods indicates that the Government believes the vast majority of businesses are doing the right thing in this regard.

Company tax — significant global entity definition broadened

The definition of a “significant global entity” (SGE) will be amended to include members of large multinational groups headed by private companies, trusts and partnerships. It will also include members of groups headed by investment entities.



The current definition applies only to an entity which is a member of a group headed by a public company or a private company required to provide consolidated financial statements.

The measure will also ensure the Commissioner's power to determine an entity to be an SGE parent operates as intended.

The SGE definition identifies entities which are required to prepare country-by-country (CbC) reports, and is used to determine entities which may be subject to Australia's multinational tax integrity rules, such as the multinational anti-avoidance law (MAAL) and the diverted profits tax (DPT).

The measure will apply to income years commencing on or after 1 July 2018.

Tax integrity — tightening of thin capitalisation rules

The thin capitalisation rules will be amended to require entities to align the value of their assets for thin capitalisation purposes with the value included in their financial statements.

This measure will apply to income years commencing on or after 1 July 2019, and all entities must rely on the asset values contained in their financial statements for thin capitalisation purposes. Valuations made before 7.30pm (AEST) on 8 May 2018 may be relied on until the beginning of an entity's first income year commencing on or after 1 July 2019.

Consolidated groups and multiple entry consolidated groups that are foreign controlled, which in turn control a foreign entity themselves, will be treated as both outward and inward investment vehicles for thin capitalisation purposes. This measure will also apply to income years commencing on or after 1 July 2019. This change is intended to ensure that inbound investors cannot access tests that are only intended for outward investors.

Tax integrity — tax exempt entity loans

Tax exempt entities that become taxable after 8 May 2018 will not be able to claim tax deductions that arise on the repayment of the principal of a concessional loan.

The deductions arise due to unforeseen complex interaction between the taxation of financial arrangements rules and the rules dealing with deemed market values for tax exempt entities that become taxable. Concessional loans entered into by tax exempt entities that become taxable will be required to be valued as if they were originally entered into on commercial terms. This measure is an integrity measure which protects the revenue base.

Tax Integrity — 50% CGT discount removed for MITs and attribution MITs at the trust level

Managed investment trusts (MITs) and attribution MITs (AMITs) will be prevented

from applying the 50% capital gains tax (CGT) discount at the trust level. This measure will apply to payments made from 1 July 2019.

The measure will prevent beneficiaries that are not entitled to the CGT discount in their own right from getting a benefit from the CGT discount being applied at the trust level. It will ensure that MITs and AMITs operate as genuine flow through tax vehicles, so that income is taxed in the hands of investors, as if they had invested directly.

MITs and AMITs that derive a capital gain will still be able to distribute this income as a capital gain that can be discounted in the hands of the beneficiary.

Tax Integrity — anti avoidance rules for circular trust distributions extended to family trusts

A specific anti-avoidance rule that applies to closely held trusts engaging in circular trust distributions will be extended to family trusts.

Currently, where family trusts act as beneficiaries of each other in a “round robin” arrangement, a distribution can be ultimately returned to the original trustee — in a way that avoids any tax being paid on that amount. This measure will better enable the ATO to pursue family trusts that engage in these arrangements by extending the specific anti-avoidance rule, imposing tax on such distributions at a rate equal to the top personal tax rate plus the Medicare levy.

The measure will apply from 1 July 2019.

Tax Integrity — testamentary trusts and injected assets

From 1 July 2019, the concessional tax rates available for minors receiving income from testamentary trusts will be limited to income derived from assets that are transferred from

the deceased estate, or the proceeds of the disposal or investment of those assets.

Currently, income received by minors from testamentary trusts is taxed at normal adult rates rather than the higher tax rates that generally apply to minors. However, some taxpayers are able to inappropriately obtain the benefit of this lower tax rate by injecting assets unrelated to the deceased estate into the testamentary trust. The measure will clarify that minors will be taxed at adult marginal tax rates only in respect of the income a testamentary trust generates from assets of the deceased estate (or the proceeds of the disposal or investment of these assets).

Income tax exemption for International Cricket Council

A five year income tax exemption will be provided to a subsidiary of the International Cricket Council (ICC) for the ICC World Twenty20 to be held in Australia in 2020. The exemption will apply from 1 July 2018 to 30 June 2023. The subsidiary will also be provided an exemption from interest, dividend and royalty withholding tax liabilities for the same period.

International tax — list of information exchange countries to be updated

The government will update the list of countries whose residents are eligible to access a reduced withholding tax rate of 15%, instead of the default rate of 30%, on certain distributions from Australian managed investment trusts (MITs). Listed countries are those which have established the legal relationship enabling them to share taxpayer information with Australia. The update will add the 56 jurisdictions that have entered into information sharing agreements since 2012.



This measure supports the operation of the MIT withholding tax system by providing the reduced withholding tax rate only to residents of countries that enter into effective information sharing agreements with Australia.

The updated list will be effective from 1 January 2019.

Deductible gift recipients list updated

Since the Mid-Year Economic and Fiscal Outlook 2017/18, the following organisations have been approved as specifically-listed deductible gift recipients for the following dates:

- Paul Ramsay Foundation Ltd from 1 July 2018 to 30 June 2020
- Australian Women Donors Network from 9 March 2018 to 8 March 2023
- Victorian Pride Centre Ltd from 9 March 2018 to 8 March 2023
- Smile Like Drake Foundation Ltd from 9 March 2018 to 8 March 2023
- Australian Sports Foundation Charitable Fund from 1 July 2018 to 30 June 2023, and
- Q Foundation Trust from 1 January 2018 to 31 December 2022.

Superannuation

Increased membership of SMSFs and small APRA funds

New and existing self-managed superannuation funds (SMSFs) and small APRA funds will be allowed to have a maximum of six members from 1 July 2019. Currently, the maximum allowable number of members in an SMSF and a small APRA fund is four.



PKF Comment

The maximum allowable member increase may be welcome by taxpayers as this measure increases flexibility for larger families. Given the ability to introduce further members, the measures potentially allow for further shifts in the management and control of funds, expanding inter-generational opportunities. It is important to consider the family dynamics and the ability for children to outvote parents before admitting children or children's spouses.

Three-yearly audit cycle for some SMSFs

The annual audit requirement for self-managed superannuation funds (SMSFs) will be changed to a three-yearly requirement for SMSFs with a history of good record keeping and compliance, ie for SMSF trustees that have a history of three consecutive years of clear audit reports and timely lodgements of the fund's annual returns.

This measure will commence on 1 July 2019. The government will consult with stakeholders to ensure a smooth implementation of this measure.



PKF Comment

A welcome measure for eligible complying SMSFs as the proposed audit cycle may reduce compliance costs associated with annual audit requirements. However, SMSF auditors having to audit three years at once adds the risk that financial and compliance issues will be left undetected for up to four years, and is unlikely the audit will be 2/3rd cheaper. It will be imperative

that SMSF trustees maintain regular communication with our SMSF specialist team to identify and resolve any compliance issues at the earliest possible opportunity.

Preventing inadvertent concessional cap breaches

Individuals whose income exceeds \$263,157, and have multiple employers, will be able to nominate that their wages from certain employers are not subject to the superannuation guarantee (SG) from 1 July 2018. The measure is intended to ensure eligible individuals can avoid unintentionally breaching the \$25,000 annual concessional contributions cap as a result of multiple compulsory SG contributions. Breaching the cap results in individuals being liable to pay excess contributions tax and a shortfall interest charge. Employees using this measure may receive additional income which will be taxed at marginal tax rates.



PKF Comment

As the adage goes ‘failing to plan is planning to fail’. Employees will be able to forward plan and work with their various employers to avoid unintentional breaches of the concessional contributions cap and negotiate to receive marginally taxed income instead.



Improving integrity of personal contributions deductions

Individual income tax returns will be modified to include a tick box for individuals with personal superannuation contributions to confirm that they have complied with the requirements to submit a “notice of intent” (NOI) where they intend to take a tax deduction for the contributions.

The change is intended to improve the integrity of the NOI processes for claiming personal superannuation contribution tax deductions. Where individuals take deductions for their personal superannuation contributions, but do not submit the required “notice of intent”, it results in superannuation funds not applying the 15% tax to their contribution and no tax is paid on it.

The ATO will receive additional funding to develop a new compliance model, and to undertake additional compliance and debt collection activities, including denying deductions to individuals who do not comply with the NOI requirements.

This measure will commence from 1 July 2018.



PKF Comment

The measure is expected to increase compliance from business owners and other non-employees whilst reducing mismatches in contributions made with deductions claimed. We expect this to be welcome as the proposed measure seeks to close another loophole for non-complying taxpayers.

Super work test exemption for recent retirees

An exemption from the work test for voluntary contributions to superannuation will be introduced from 1 July 2019 for people aged 65-74 with superannuation balances below \$300,000, in the first year that they do not meet the work test requirements.

The work test exemption will give recent retirees flexibility to get their financial affairs in order in the transition to retirement. Currently, the work test restricts the ability to make voluntary superannuation contributions for those aged 65-74, to individuals who self-report as working a minimum of 40 hours in any 30-day period in the financial year.

Changes to superannuation insurance arrangements

Insurance within superannuation will move from being a default framework to being offered on an opt-in basis for:

- members with low balances — less than \$6,000
- members under the age of 25 years, and
- members whose accounts have not received a contribution in 13 months and are inactive.

The changes will take effect on 1 July 2019 and affected superannuants will have a period of 14 months to decide whether they will opt-in to their existing cover or allow it to switch off.

Superannuation fee protection measures to be introduced

A 3% annual cap will be introduced on passive fees charged by superannuation funds on accounts with balances below \$6,000, and exit fees on all superannuation accounts will be banned.

The government will also strengthen the ATO's account consolidation regime by requiring the transfer of all inactive superannuation accounts to the ATO where the balances are below \$6,000. The ATO will expand its data matching processes to proactively reunite these inactive superannuation accounts with the member's active account, where possible. This measure will also include the proactive payment of funds currently held by the ATO.

These changes will take effect from 1 July 2019.

Financial institutions supervisory levies to be increased

The financial institutions supervisory levies will be increased to raise additional revenue of \$31.9m over four years, from 2018/19.

This will fully recover the cost of superannuation activities undertaken by the ATO, consistent with the Australian Government Cost Recovery Guidelines.

Black economy measures

Reforms to combat illegal phoenixing and black economy

The government will reform the corporations and tax laws and provide the regulators with additional tools to assist them to deter and disrupt illegal phoenix activity. The package includes reforms to:

- introduce new phoenix offences to target those who conduct or facilitate illegal phoenixing
- prevent directors improperly backdating resignations to avoid liability or prosecution
- limit the ability of directors to resign when this would leave the company with no directors
- restrict the ability of related creditors to vote on the appointment, removal or replacement of an external administrator
- extend the Director Penalty Regime to GST, luxury car tax and wine equalisation tax, making directors personally liable for the company's debts, and
- expand the ATO's power to retain refunds where there are outstanding tax lodgements.

Additional funding to the ATO will also be provided over four years to implement new strategies to combat the black economy. The ATO will implement a new and enhanced enforcement strategy that brings together new mobile strike teams and an increased



audit presence, a Black Economy Hotline that will allow for the community to report black economy and illegal phoenix activities, improved government data analytics, and educational activities.

The government will also consult on and design a new regulatory framework for the Australian Business Number (ABN) system in 2018/19. This measure implements a recommendation of the Black Economy Taskforce — Final Report that the ABN system be strengthened to provide improved confidence in the identity and legitimacy of Australian businesses.

Taxable payments reporting system to be expanded

The taxable payments reporting system (TPRS) will be expanded to the following industries from 1 July 2019:

- security providers and investigation services
- road freight transport, and
- computer system design and related services.

The TPRS requires businesses to report to the ATO any payments made to contractors during an income year. This additional reporting to the ATO is in the form of an annual report, and puts these payments in line with payments made for salaries and wages to employees. As the report is a yearly report for years commencing 1 July 2019, the first annual report will be required in August 2020.

These reporting requirements are identical to ones already in place for payments to contractors in the building and construction industry, as well as payments in the cleaning and courier industries, commencing 1 July 2018.

Large government contract tenders required to be tax compliant

Businesses seeking to tender for large Australian government contracts will be required to provide information on the status of their tax obligations.

Under the proposed arrangements, contracts over \$4m (including GST) will be affected.

The ATO will receive additional funding to support this measure, which is part of a larger framework of funding for Black Economy Taskforce measures.

This measure will commence from 1 July 2019.

Cash receipt limit for businesses to be introduced

Large undocumented cash payments can be used to avoid tax or to launder money from criminal activity. The government will introduce a Black Economy Taskforce recommendation to limit a cash receipt for a business to under \$10,000, from 1 July 2019.

Transactions with financial institutions or consumer to consumer non-business transactions will not be affected.

The Black Economy Taskforce measures include additional funding for the Department of Treasury to enable stakeholder consultation to help with details on the measure. Also, the ATO will receive enhanced funding that will help with enforcement of these proposed measures.

Indirect taxes

GST to be extended to offshore hotel accommodation sellers

Offshore sellers of hotel accommodation in Australia will be required to calculate their GST turnover in the same way as local sellers from 1 July 2019.

Currently, unlike GST-registered businesses in Australia, offshore sellers of Australian hotel accommodation are exempt from including sales of hotel accommodation in their GST turnover. This means that they are often not required to register for and charge GST on their mark-up over the wholesale price of the accommodation.

Removing the exemption will level the playing field by ensuring the same tax treatment of Australian hotel accommodation, whether booked through a domestic or offshore company.

The measure will apply to sales made on or after 1 July 2019. Sales that occur before 1 July 2019 will not be subject to the measure even if the stay at the hotel occurs after this date. This change will require the unanimous agreement of the states and territories prior to the enactment of legislation.

This measure follows the extension of GST to digital products and other services from 1 July 2017, and to low value imported goods from 1 July 2018.



PKF Comment

As the net of the 'Netflix Tax' broadens, offshore hotel accommodation sellers of hotel accommodation in Australia will be impacted by the proposed measure. This will see an increase in compliance costs and administrative burden for inbound businesses. The measure is aimed at levelling the playing field for local businesses if a robust collection mechanism is implemented.

Removal of luxury car tax on re-imported cars following refurbishment overseas

The luxury car tax on cars re-imported into Australia, following a refurbishment overseas, will be removed from 1 January 2019.

Currently, cars that are refurbished in Australia are not subject to luxury car tax. However, cars exported from Australia to be refurbished overseas and then re-imported are subject to the tax where the value of the car exceeds the relevant luxury car tax threshold.

The inconsistency in tax treatment of refurbished cars will be removed in order to align with Australia's trade obligations with its foreign trading partners. This measure will ensure the same tax treatment applies, regardless of where the car is refurbished.

Larger refunds and lower rates of excise on alcohol

The alcohol excise refund scheme will be increased from \$30,000 per financial year to \$100,000 commencing 1 July 2019. The refund will increase for domestic brewers, distillers and producers of draught beer and other fermented beverages such as cider.

Domestic brewers of beer will also receive additional relief in the form of a lower excise rate for smaller kegs. Currently, a lower rate of excise is available for draught beer kegs that are larger than 48 litres. The threshold for this concessional rate will be lowered to kegs which are 8 litres and above.

Black economy package — combatting illicit tobacco

Measures to target the three main sources of illicit tobacco in Australia (smuggling, leakage from licensed warehouses and domestic production) will be introduced.

Collecting tobacco duties and taxes at the border

From 1 July 2019, importers of tobacco will be required to pay all duty and tax liabilities upon importation.

This is a change from the current system, where tobacco can be imported and stored in licensed warehouses prior to tax being paid.

Transitional arrangements will apply to tobacco products that are held in licensed warehouses at the commencement of the measure on 1 July 2019, allowing eligible affected entities to pay the liability on the warehoused stock within 12 months.

Current weekly settlement arrangements will no longer apply to imported tobacco. Although there is currently no licensed commercial tobacco production in Australia, the taxing point for any future domestic manufacture of tobacco will also be changed to be consistent with the new taxing point for tobacco imports.

Creation of the Illicit Tobacco Task Force

From 1 July 2018, a multi-agency Illicit Tobacco Task Force will be formed, comprising members from a number of law enforcement and border security agencies, to combat illicit tobacco smuggling.

The new task force will have additional powers and capabilities to enhance intelligence gathering and target, disrupt and prosecute serious and organised crime groups at the centre of the illicit tobacco trade.

Additional resources to combat domestic tobacco crops

From 1 July 2018, the ATO will provide ongoing funding to bolster its capabilities to detect and destroy domestically grown illicit tobacco crops.

Prohibited import control for tobacco

From 1 July 2019, permits will be required for all tobacco imports (except for tobacco imported by travellers within duty free limits).



ATO excise systems upgrade

The ATO will upgrade and modernise its excise and excise equivalent goods payment systems from 2020/21 to replace the paper lodgement system.

Customs duty on imported placebos and clinical trial kits to be removed

Customs tariffs from placebos and clinical trial kits that are imported into Australia will be removed from 1 July 2018.

This measure will simplify the import process for clinical trial kits and placebos, removing the need to differentiate between medicines and placebos, as both will now be subject to a free rate of duty.

Access to Indirect Tax Concession Scheme extended

Access to refunds of indirect tax, including GST, fuel and alcohol taxes under the Indirect Tax Concession Scheme has been extended. New access to refunds will be granted to the diplomatic and consular representations of Cote d'Ivoire, Guatemala, Costa Rica and Kazakhstan in Australia.

Each of these changes has effect from a time specified by the Minister for Foreign Affairs.

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