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Introductory Comment

On Tuesday 29 November the Treasurer, Wayne Swan, released the 2011-12 Mid-Year Economic and Fiscal Outlook (MYEFO). This 'mid-year budget' contains a number of tax related measures as well as other policy decisions designed to keep the Government on track with its political promise of returning the Federal Budget to surplus by 2012-13.

This tax update will focus on the key new tax proposals arising out of the MYEFO.

Fringe Benefits Tax – Living Away From Home Allowance Consultation Paper

The Government is proposing to reform the tax treatment of Living Away From Home Allowance benefits (LAFHA) by taxing the allowances under the Income Tax regime, rather than as fringe benefits.

By doing so the Government aims to curb the current exploitation of the LAFHA concessions where employers replace or supplement otherwise taxable wages for concessionally taxed LAFHAs without a requirement for substantiating any actual expenses incurred. Of particular concern is the growing use of the concessions by employers to attract temporary resident workers (people with a specific visa and treated as a temporary resident for income tax purposes).

Currently a LAFHA is subject to FBT, and the taxable portion of the benefit excludes any reasonable amounts paid in compensation for accommodation and increased expenditure on food as a result of temporary relocation for work purposes.

Under the proposed amendments a LAFHA provided to a permanent resident will be taxed under the Income Tax regime, consistent with other allowances which are treated as assessable income. Permanent resident employees will be allowed a tax deduction for accommodation and food expenses they can substantiate (food expenses will only need to be substantiated if they are beyond a set statutory amount).

In order for temporary residents to be eligible for similar tax treatment they will be required to maintain a home for their own use in Australia (either by renting or owning) and they must be required to live away from that home in order to complete their work and comply with the same substantiation requirements.

The other direct FBT concessions (i.e. non-allowances) related to employees living away from home, will continue to be treated as exempt fringe benefits, however, temporary residents will

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have to be maintaining an Australian home in order for these benefits to remain exempt from FBT.

No permanent resident receiving a LAFHA for genuine reasons will lose their existing entitlements. The changes will not affect ordinary travel allowances or the FBT remote area concessions.

The proposed changes will apply from 1 July 2012 to new and existing arrangements.

In conjunction with the announcement, Treasury has released a Consultation Paper seeking comments on the proposed changes. Submissions are due by 3 February 2012.

Government Superannuation Contributions

The Low Income Superannuation Contribution (LISC) was previously announced in the 2010-11 Budget and effectively ensures low income earners (individuals earning up to \$37,000) do not pay contributions tax on their superannuation contributions (including employer contributions). This will now be restricted to individuals earning 10% or more of their income from employment or carrying on a business.

The current Superannuation Co-contribution will be reduced from 1 July 2012 to coincide with the commencement of the LISC. For 2012-13 the maximum co-contribution rate will be 50% with a maximum contribution of \$500 for people with income up to \$31,920 (phasing out at income levels of \$46,920).

Superannuation Caps – Pausing Indexation

The indexation of the various superannuation contribution caps will be paused for one year in 2013-14 such that they will remain at their current levels. The relevant caps are as follows:

- » General concessional contributions cap: this cap applies to super contributions which are taxed at 15% in the superfund which include employer and personal contributions. This cap will remain at \$25,000 until 2014-15 when the cap is expected to rise to \$30,000;
- » Concessional contributions cap for individuals aged over 50: this cap, similar to the general cap above but specific to older taxpayers, will remain at \$50,000 until 2013-14;
- » Non-concessional contributions cap: this cap applies to after tax contributions to superannuation and will remain at \$150,000 until 2013-14.

Superannuation – Reduction in Minimum Pension Rates

In recognition of the effects of the GFC, the minimum rate at which superannuation pensions had to be drawn for account-based, allocated and market linked pensions was reduced during the 2011-12 Budget by 25% (for 2012 the minimum rate is therefore 3%) and was proposed to return to normal in 2012-13.

The Government will now extend this pension drawdown relief for a further year.

This means that a superannuation pensioner (receiving either an allocated, account based or market linked [or "term allocated"] pension) under age 65 will be required to take at least the following minimum percentages of their opening account balance each year as pension payments:

- » 2011-12 3%
 - » 2012-13 3%
 - » 2013-14 4% (a return to normal rates)
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50% Tax Discount on Interest Income – Deferred

The previously announced 50% tax discount for interest income earned by individuals (either directly or indirectly) will be deferred a further 12 months.

The measure will now apply from 1 July 2013. The caps on interest income that is eligible for the discount in its first 12 months of operation is \$500 for 2013-14, and \$1,000 for later income years.

Standard Deduction for Work Related Expenses and the Cost of Managing Tax Affairs – Deferred

The Government will defer the start date of the standard deduction for work related expenses and the cost of managing tax affairs from 1 July 2012 to 1 July 2013.

Accordingly, from 1 July 2013 an automatic deduction of \$500 will apply. This amount will increase to \$1,000 in 2014-15 and the following tax years.

Dependent Spouse Tax Offset – Further Phase Out

The Government is increasing the rate at which the Dependent Spouse Tax Offset (DSTO) will be phased out.

From 1 July 2012 taxpayers with a dependent spouse born on or after 1 July 1952 will no longer be eligible for the DSTO. This means that the DSTO will be gradually phased out as the population ages. This measure was previously announced in the 2011-12 Budget to apply to spouses born after 1 July 1971.

Taxpayers with an invalid or permanently disabled spouse, supporting a carer, or people who are eligible for the zone, overseas forces and overseas civilian tax offsets will not be affected by this change.

Baby Bonus and Family Tax Benefit Part A

The Baby Bonus is usually indexed each year and is currently sitting at \$5,437 per child. From 1 September 2012 the rate of the Baby Bonus will be reset back to \$5,000 per child and from 1 July 2012 the bonus rate will no longer be indexed, remaining constant for the next 3 years.

From 1 July 2012 the entitlement to Family Tax Benefit Part A supplement will be conditional on a child being fully immunised. From 1 July 2013, children will also be required to receive vaccines for meningococcal C, pneumococcal and chicken pox in order to be considered fully immunised.

Capital Gains Tax and Restructures

CGT roll-over relief is currently available for unit holders that wish to switch to a company structure in which they receive shares in replacement of their units. In order for CGT-relief to apply the unit holders had to have held their units on capital account.

The Government will extend this tax concession to unit holders who hold their units on revenue account (i.e. as trading stock). This proposal is intended to have effect from 10 May 2011.

Managed Investment Trust Tax Regime – Deferred

The Government will defer the start date for the new tax system designed for Managed Investment Trusts (MITs) by a further 12 months to 1 July 2013.

The new MIT regime was first announced in the 2010-11 Budget and was originally intended to commence on 1 July 2011. The deferral will allow additional time for consultation on the implementation of the new regime.