RIGBY COOKE LAWYERS

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Federal Budget Tax Alert

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About Rigby Cooke Lawyers

Our People: Your Success

Rigby Cooke Lawyers is a full service law firm providing commercial expertise and industry knowledge to private and public sector clients across Australia.

With origins that can be traced back to the 1840s, we have earned our reputation of achieving success for – and with – our clients, by remaining adaptive to change. We do this by understanding each of our clients' businesses and industry, and by staying at the forefront of changes in technology and legislation.

This is because, above all else, we remain true to our mission, *Our People: Your Success*.

Our lawyers are technically excellent in their areas of expertise; but more importantly for our clients, they are genuinely concerned with the application of the law in the 'real world' to get results.

We are outcome-focused and commercially-minded – helping you achieve your goals in the most effective and efficient manner is our key objective.

We can work with you by providing full-service ongoing support for all your commercial and private needs or by offering specialty expertise when required.

A key part of our way of operating is to get to know you and your business. We visit your sites; we work with your people. We like to work with clients on an on-going basis so we can be involved from the beginning of a project, providing the external perspective that can make a difference.

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A unique feature of a firm of our size is the breadth of commercial services we offer. Led by technically skilled legal partners, and supported by intelligent and efficient teams, we have the capacity and capability of a larger firm, but with the organisational structure to remain agile to our clients' evolving needs.

Our team of **80 staff** in Melbourne covers:

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- Corporate & Commercial
- Health & Pharmaceutical
- Hospitality & Tourism
- Hotels
- Intellectual Property
- International Business
- Litigation & Dispute Resolution
- Mergers & Acquisitions
- Migration
- Not-for-Profit
- Planning & Environment
- Property
- Tax & Wealth
- Transport & Logistics
- Wills & Estates
- Workplace Relations

Introduction

The Federal Treasurer handed down his first Budget (the government's third) at 7.30pm on 3 May 2016.

The **company and business tax** changes announced in the Budget include:

> The small business entity turnover increasing from $2m to $10m from 1 July 2016 which will widen the access to existing income tax concessions such as depreciation write-offs. The increased turnover will not apply for the purposes of the small business capital gains tax concessions

> The reduction in the company tax rate to 27.5 per cent in 2016-17 for companies with a turnover of less than $10 million. The threshold will be progressively increased to ultimately have all companies at 27.5 per cent in the 2023-24 income year

> In the 2024-25 income year the company tax rate will be reduced to 27 per cent and reduce progressively by 1 percentage point per year until it reaches 25 per cent in 2026-27

> Franking credits to shareholders in the companies will fall in line with the reduction in company tax.

Introduction - continued

The **superannuation** changes announced in the Budget include:

- Introducing a $1.6 million cap on the total amount of superannuation that can be transferred into tax free retirement phase accounts
- Requiring those with incomes (including superannuation) greater than $250,000 to pay 30 per cent tax on their concessional contributions, up from 15 per cent
- Lowering the concessional contribution caps so that individuals can contribute up to $25,000 per annum pre-tax to superannuation
- Introducing a lifetime cap of $500,000 on the non-concessional contributions that can be made to superannuation.

For **small to medium enterprises** the increased turnover threshold for small business income tax concessions, the further cuts to the company tax rate and targeted amendments to Division 7A (deemed dividends from private companies) are welcome.

For **large businesses** there is no immediate tax cut, though there is a plan to lower the rate over time until it equalises with the small business tax rate. The focus is instead on further measures dealing with multinational profit shifting and tax avoidance.

For **investors** the absence of any changes to negative gearing and the capital gains tax discount is a relief as such changes were viewed as counter to growth. The introduction of two new types of collective investment vehicles is an excellent initiative.

For **innovation**, there is an expansion of the previously announced incentives for early-stage innovative companies and expanded funding arrangements for venture capital investment.

For **super fund members** there is a plethora of changes, many of which provide commendable flexibility including the ability to catch up contributions, contribute without the work test restrictions from age 65 to 74 and obtain personal super contribution deductions even if not substantially self-employed. For the higher earners there is the expected tightening of various rules which will limit the concessional and non-concessional contributions to super funds, limit the amount in tax-free retirement phase and lower the income level at which the 30% contributions tax will apply to higher income earners. The surprise is that those with balances already in tax-free retirement phase above 1.6 million must reduce it to that amount by 1 July 2017; the excess can go back into accumulation phase taxed at 15%. Hopefully it will be clarified that it can also stay in retirement phase as a pension but with earnings taxed at 15%.

On the **GST** front the government intends to extend GST to low value goods (under $1000) imported by consumers from 1 July 2017 where the overseas suppliers have an Australian turnover of $75,000 or more. This is subject to the unanimous agreement of the States and Territories.

Multinational profit shifting and international

Section highlights

- A 40% tax on the profits of multinational corporations that are artificially diverted from Australia will be introduced from 1 July 2017.
- Transfer pricing rules will be amended to give effect to OECD recommendations, effective from 1 July 2016.
- Rules developed by the OECD to eliminate hybrid mismatch arrangements will be implemented from 1 January 2018.
- Administrative penalties imposed on significant global entities will be increased from 1 July 2017.

Diverted profits tax to be introduced

A 40% diverted profits tax (DPT) on the profits of multinational corporations that are artificially diverted from Australia will be introduced for income years commencing on or after 1 July 2017.

The DPT, which is part of the government's Tax Integrity Package, will target companies that shift profits offshore through arrangements involving related parties:

- That result in an amount of tax being paid overseas that is less than 80% of the amount of tax that would otherwise have been paid in Australia
- Where it is reasonable to conclude that the arrangement is designed to secure a tax reduction
- That do not have sufficient economic substance.

The tax will apply to significant global entities (ie entities which, together with any related entities, have global annual revenue of $1b or more) that are Australian residents or that have a permanent establishment in Australia.

Significant global entities with Australian annual turnover of less than $25m are exempted from the tax, unless income is artificially booked offshore.

The DPT is intended to cover certain situations where the existing integrity rules and the recently-introduced multinational anti-avoidance law are difficult to apply and enforce, particularly where the taxpayer does not cooperate with the Commissioner during the audit process.

Transactions subject to DPT

For taxpayers satisfying the threshold turnover conditions, an arrangement with a related party may be subject to the DPT if:

> The transaction gives rise to an effective tax mismatch

> The transaction has insufficient economic substance.

Effective tax mismatch

An effective tax mismatch will arise if a transaction, or a series of transactions, between an Australian taxpayer and a related party result in a reduced Australian tax liability for the Australian taxpayer and an increased overseas tax liability for the related party, such that the amount of the increased liability for the related party is less than 80% of the reduction in Australian tax liability for the Australian taxpayer.

In determining the tax liabilities to be compared, only Australian and foreign income taxes will be taken into account, and other taxes such as goods and services tax will be disregarded. Prior tax losses which may be available to the related party will not be included in the comparison.

Insufficient economic substance

An arrangement will be determined to have insufficient economic substance if, based on information available to the Commissioner at the time of the determination, it is reasonable to conclude that the transaction (or series of transactions) was designed to secure the tax mismatch.

An arrangement will be taken to have sufficient economic substance (so that the DPT will not apply) where the non-tax financial benefits of the arrangement exceed the financial benefit of the tax reduction.

Administration

The DPT is not imposed on a self-assessment basis, and liability to the tax will only arise if the Commissioner issues a DPT assessment. The Commissioner will have a broad discretion to not apply the tax where he considered the transaction or arrangement to be low risk.

Where a DPT assessment is issued, liability is imposed at a rate of 40% of the "diverted profits amount", which is an amount assessed by the Commissioner on the following basis:

> Where the deduction claimed by the Australian taxpayer is considered to exceed an arm's length amount, the provisional diverted profits amount will be 30% of the transaction expense

> For all other cases, the provisional diverted profits amount will be based on the best estimate of the diverted taxable profit that can reasonably be made by the Commissioner at the time of the assessment

> Where the debt levels of a significant global entity fall within the thin capitalisation safe harbour, only the pricing of the debt and not the amount of the debt will be taken into account in determining any DPT liability.

Administration - continued

An offset will be allowed for any Australian taxes paid on the diverted profits (eg withholding taxes) but will not be reduced by any amount of tax paid in a foreign jurisdiction on the diverted profits. A DPT assessment will also include an interest charge calculated by reference to the period from the date any amount would have been payable on the relevant income tax assessment.

Following the issue of a DPT assessment, a 12-month review period applies during which the Commissioner may consider any further information, including information provided by the taxpayer. If the Commissioner considers the initial assessment to be insufficient he may issue a supplementary assessment up to 30 days before the end of the review period.

Transfer pricing rules to be strengthened

The strengthening of transfer pricing rules is covered by Actions 8 to 10 of the OECD's Action Plan on Base Erosion and Profit Shifting.

Action 8 focused on the transfer pricing issues relating to controlled transactions involving intangibles, since intangibles are by definition mobile and often hard to value. Under Action 9, contractual allocations of risk are respected only when they are supported by actual decisions, thus exercising control over these risks. Action 10 focused on other high-risk areas, including the scope for addressing profit allocations resulting from controlled transactions which are not commercially rational. The OECD's report contains revised guidance which responds to these issues and ensures that transfer pricing rules secure outcomes that better align operational profits with the economic activities which generate them.

Australia's current transfer pricing legislation specifies that it is to be interpreted so as best to achieve consistency with the OECD's Transfer Pricing Guidelines. On 5 October 2015, the OECD released the report "Aligning Transfer Pricing Outcomes with Value Creation" to update the guidelines. The changes to the guidelines include:

- Enhanced guidance on intellectual property and other intangibles
- Changes to ensure that transfer pricing analysis reflects the economic substance of the transaction.

As part of the government's Tax Integrity Package, the transfer pricing rules in Div 815 of the Income Tax Assessment Act 1997 will be amended to incorporate the changes to the OECD's guidelines, with effect from 1 July 2016.

OECD hybrid mismatch arrangement rules to be implemented

The implementation of rules to eliminate hybrid mismatch arrangements is Action 2 of the OECD's Action Plan on Base Erosion and Profit Shifting. Under Action 2, the OECD recommended that governments implement domestic rules (eg double non-taxation, double deduction, long-term deferral) to neutralise the effect of hybrid instruments and entities. These may include:

- Provisions that prevent exemption or non-recognition for payments that are deductible by the payer
- Provisions that deny a deduction for a payment that is not included in income by the recipient and is not subject to taxation under controlled foreign company (CFC) or similar rules
- Provisions that deny a deduction for a payment that is also deductible in another jurisdiction.

In the 2014/15 Federal Budget the Government announced that the Board of Taxation would consult on the implementation of the OECD's draft plan. The Board of Taxation gave its report in March 2016, and the Government has asked the Board to undertake further work on how best to implement these rules.

When implemented, the rules will apply from the later of 1 January 2018 or six months after the enabling legislation receives Royal Assent.

Increased administrative penalties for significant global entities

A range of administrative penalties will be increased for significant global entities (ie entities which, together with any related entities, have annual global turnover in excess of $1b) from 1 July 2017 as part of the government's Tax Integrity Package. In particular:

- Penalties relating to the lodgment of tax documents to the ATO will be increased by a factor of 100 when imposed on significant global entities, raising the maximum penalty from $4,500 to $450,000
- Penalties relating to making statements to the ATO will be doubled when imposed on significant global entities.

Small Business

Section highlights

- The small business entity turnover threshold will be increased from $2m to $10m from 1 July 2016 for the purposes of accessing certain existing income tax concessions. The increased threshold will not apply for the purposes of accessing existing small business capital gains tax concessions.
- The unincorporated small business tax discount will be increased in phases over 10 years from the current 5% to 16%, first increasing to 8% on 1 July 2016. The current cap of $1,000 per individual for each income year will be retained.
- GST reporting requirements for small businesses will be simplified from 1 July 2017.

Increased turnover threshold for small business income tax concessions

The small business entity turnover threshold will be increased from $2m to $10m from 1 July 2016. The increased threshold means businesses with an annual turnover of less than $10m will be able to access existing small business income tax concessions including the:

- Lower small business corporate tax rate (which will be reduced to 27.5% from the 2016/17 income year)
- Simplified depreciation rules under Subdiv 328-D of the Income Tax Assessment Act 1997 (ITAA 1997), including the instant asset write off threshold of $20,000 available until 30 June 2017
- Simplified trading stock rules under Subdiv 328-E of ITAA 1997
- Option to account for GST on a cash basis and pay GST instalments as calculated by the ATO
- Simplified method of paying PAYG instalments calculated by the ATO
- Other tax concessions such as the extension of the FBT exemption for work-related portable electronic devices available from 1 April 2016 and the immediate deduction of professional expenses under s 40-880 of ITAA 1997.

Increased turnover threshold for small business income tax concessions - continued

The increased $10m threshold will not be applicable for accessing the small business capital gains tax concessions. These concessions will remain available only for small businesses with a turnover of less than $2m or that satisfy the maximum net asset value test. The unincorporated small business tax discount (which will be increased to 8% from 1 July 2016) will however be accessible to small businesses with a turnover of less than $5m.

Unincorporated small business tax discount increased

The unincorporated small business tax discount will be increased in phases over 10 years from the current 5% to 16%. First increasing to 8% on 1 July 2016, the discount will be available to individual taxpayers with business income from an unincorporated business that has an aggregated annual turnover of less than $5m (also an increase from the current small business turnover threshold of less than $2m).

The tax discount will be increased in phases as follows:

Income year	*Discount rate*
2016/17 to 2023/24	8%
2024/25	10%
2025/26	13%
2026/27 and later	16%

The existing cap of $1,000 per individual for each income year will be retained.

The gradual increase is intended to coincide with the staggered cuts in the corporate tax rate to 25%.

GST reporting requirements simplified for small businesses

From 1 July 2017, all small businesses with less than $10m turnover will more easily be able to classify transactions, and prepare and lodge their business activity statements.

A trial of the new simpler reporting arrangements will commence on 1 July 2016.

Other enterprises

Section highlights

- The company tax rate will be progressively reduced to 25% over 10 years.
- Targeted amendments will be made to improve the operation and administration of integrity rules for closely-held, private groups (in Div 7A of the Income Tax Assessment Act 1936) from 1 July 2018.
- Tax incentives for investing in early-stage innovative companies are to be expanded.
- Funding arrangements to attract more venture capital investment will be expanded.
- A new tax and regulatory framework will be introduced for two new types of collective investment vehicles.
- The proposed measure addressing the double counting of deductible liabilities under the tax consolidation regime announced in the 2013/14 Federal Budget will be modified.
- The treatment of deferred tax liabilities under the tax consolidation regime will be amended.
- An integrity measure concerning liabilities arising from securitisation arrangements announced in the 2014/15 Federal Budget will be extended to also apply to non-financial institutions with securitisation arrangements.
- The taxation of financial arrangements (TOFA) rules will be reformed and new simplified rules will apply from 1 January 2018.
- The tax treatment of asset backed financing arrangements such as deferred payment arrangements and hire purchase arrangements will be amended.

Staggered cuts to the company tax rate

The company tax rate will be progressively reduced to 25% over 10 years.

From the 2016/17 income year, the company tax rate for businesses with an annual aggregated turnover of less than $10m will be reduced to 27.5%. This threshold to access the 27.5% tax rate will be progressively increased to ultimately have all companies at that rate in the 2023/24 income year. The thresholds for the 27.5% rate will be as follows:

Income year	*Annual aggregated turnover threshold*
2017/18	$25m
2018/19	$50m
2019/20	$100m
2020/21	$250m
2021/22	$500m
2022/23	$1b
2023/24	none

The company tax rate will be further reduced progressively from the 2024/25 income year as follows:

Income year	*Company tax rate*
2024/25	27%
2025/26	26%
2026/27	25%

Franking credits will be able to be distributed in line with the rate of tax paid by the company making the distribution.

Targeted amendments to Div 7A

Targeted amendments will be made to improve the operation and administration of integrity rules for closely-held, private groups (in Div 7A of the Income Tax Assessment Act 1936) from 1 July 2018.

The amendments will include:

> A self-correction mechanism for inadvertent breaches of Div 7A

> Appropriate safe-harbour rules to provide certainty

> Simplified Div 7A loan arrangements

> A number of technical adjustments to improve the operation of Div 7A and provide greater certainty.

The amendments draw on a number of recommendations from the Board of Taxation's post-implementation review of Div 7A.

Expanding tax incentives for early-stage investors

In the Mid-Year Economic and Fiscal Outlook 2015/16 the government announced tax incentives applying for the 2016/17 and later income years to promote investment in early stage innovative companies, including:

- A 20% non-refundable tax offset capped at $200,000 per investor per year
- A capital gains tax exemption, provided investments are held for at least three years and less than 10 years.

The concessions were announced to apply to investments in companies that were incorporated during the last three income years and that are undertaking an "eligible business", the scope of which was to be determined by the government in consultation with industry. In addition, the company could not be listed on any stock exchange and must have expenditure of less than $1m and income of less than $200,000 in the previous income year.

The government has announced that following consultation with stakeholders, the measures will be amended so that they better target investment in innovative companies that face difficulty attracting the capital and business expertise needed to succeed.

The amendments include:

- Reducing the holding period from three years to 12 months for investors to access the CGT exemption
- A time limit on incorporation and criteria for determining if a company is an innovation company under the definition of "eligible business"
- Requiring that the investor and innovation company are non-affiliates
- Limiting the investment amount for non-sophisticated investors to qualify for the tax offset to $50,000 or less per income year.

Funding arrangements for venture capital investment expanded

Funding arrangements to attract more venture capital investment will be expanded to improve access to capital and make the regimes more user-friendly.

The government has amended the Mid-Year Economic and Fiscal Outlook 2015/16 measure "National Innovation and Science Agenda — new arrangement for venture capital investment" to:

- Add a transitional arrangement that allows conditionally registered funds that become unconditionally registered after 7 December 2015 to access the tax offset if the criteria are met
- Relax the requirement for very small entities to provide an auditors' statement of assets

Funding arrangements for venture capital investment expanded - continued

> Extend the increase in fund size from $100m to $200m for new early-stage venture capital limited partnerships (ESVCLPs) to also apply to existing ESVCLPs, and

> Ensure that the venture capital tax concessions are available for FinTech, banking and insurance related activities.

New collective investment vehicles introduced

A new tax and regulatory framework will be introduced for two new types of collective investment vehicles (CIVs).

A corporate CIV will be introduced for income years starting on or after 1 July 2017 and a limited partnership CIV will be introduced for income years starting on or after 1 July 2018.

The new CIVs will be required to meet similar eligibility criteria as managed investment trusts, such as being widely held and engaging in primarily passive investment. Investors in these new CIVs will generally be taxed as if they had invested directly.

This measure is intended to allow fund managers to offer investment products using vehicles that are commonly in use overseas.

Modified deductible liabilities measure for consolidated groups

The measure to address the tax benefit arising from the double counting of deductible liabilities under the tax consolidation regime will be modified.

First announced in the 2013/14 Federal Budget, the measure will be modified such that a consolidated group that acquires a subsidiary with deductible liabilities will no longer include those liabilities in the consolidation entry tax cost setting process, thus removing a double tax benefit.

The original measure required a consolidated group to recognise an additional income amount over a certain period after acquiring an entity with deductible liabilities. The change to the measure is intended to remove inequitable consequences to taxpayers identified in the consultation on the 2013/14 budget measure.

The start date for this measure will be deferred from 14 May 2013 to 1 July 2016.

Treatment of deferred tax liabilities in consolidation regime

The treatment of deferred tax liabilities under the tax consolidation regime will be amended by removing adjustments relating to deferred tax liabilities from the consolidation entry and exit tax cost-setting rules.

The measure is intended to address a commercial/tax mismatch, more closely align the commercial and tax outcomes and improve the integrity of the tax consolidation regime.

The measure will apply to joining and leaving events under transactions that commence after the date the amending legislation is introduced into parliament.

Broader integrity measure for liabilities from securitised assets

An integrity measure concerning liabilities arising from securitisation arrangements announced in the 2014/15 Federal Budget will be extended to also apply to non-financial institutions with securitisation arrangements, ensuring the same treatment for both financial and non-financial institutions. These liabilities will be disregarded if the relevant securitised asset is not recognised for tax purposes.

The 2014/15 budget measure was originally targeted at securitisation arrangements within financial institutions and intended to apply to arrangements that commenced on or after 14 May 2014.

The broadened measure will apply to transactions that commence on or after 7:30pm AEST on 3 May 2016. Transitional rules will apply to arrangements that commence before this time.

TOFA rules to be simplified

The taxation of financial arrangements (TOFA) rules will be reformed to reduce their scope, decrease compliance costs and increase certainty. The measure contains the following components:

- A “closer link to accounting” to strengthen and simplify the existing link between tax and accounting in the TOFA rules
- Simplified accruals and realisation rules (which will reduce the number of taxpayers that come within the TOFA rules), to reduce the arrangements where spreading of gains and losses is required under TOFA and simplify the required calculations
- A new tax hedging regime which is easier to access, encompasses more types of risk management arrangements (including risk management of a portfolio of assets), and removes the direct link to financial accounting
- Simplified rules for the taxation of gains and losses on foreign currency to preserve the current tax outcomes but streamline the legislation.

TOFA rules to be simplified - continued

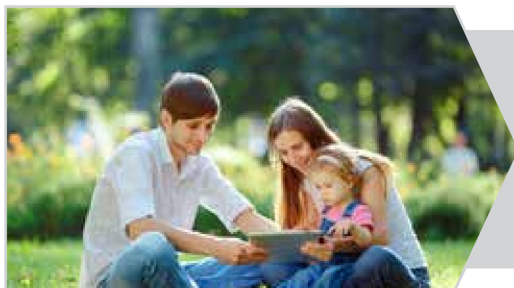
The reform of the TOFA rules is intended to remove the majority of taxpayers from the TOFA regime, resulting in lower compliance costs, provide simpler rules and more certainty. It will also incorporate government policy that was reflected in the following measures previously announced but not enacted:

- Amendments to tax hedging rules to ensure they operate as intended and to provide further certainty — announced in the 2011/12 Federal Budget
- Functional currency rules — extending the range of entities that can use a functional currency to allow certain trusts and partnerships keeping accounts solely or predominantly in a foreign currency to calculate net income using that foreign currency — announced in the 2011/12 Federal Budget
- Foreign currency regulations — technical and compliance cost savings amendments — first announced in the Mid-Year Economic and Fiscal Outlook 2004/05.
- The new simplified TOFA rules will apply to income years on or after 1 January 2018.

Changes to tax treatment for asset backed financing

The tax treatment of asset backed financing arrangements such as deferred payment arrangements and hire purchase arrangements will be clarified to ensure they are treated in the same way as financing arrangements based on interest bearing loans or investments.

This measure will apply from 1 July 2018.



Individuals and families

Section highlights	
	> The threshold at which the 37% marginal tax rate for individuals commences will increase from taxable incomes of $80,000 to $87,000 from 1 July 2016.
	> The low-income thresholds for the Medicare levy and surcharge will increase from the 2015/16 income year.
	> The pause in the indexation of the income thresholds for the Medicare levy surcharge and the private health insurance rebate will continue for a further three years from 1 July 2018.
	> Income tax exemptions will be provided for ADF personnel deployed in Afghanistan, the Middle East and in international waters.
	> Six organisations have been added to the list of specifically-listed deductible gift recipients.

Personal income tax relief

The threshold at which the 37% marginal tax rate for individuals commences will increase from taxable incomes of $80,000 to $87,000 from 1 July 2016.

This measure reduces the marginal income tax rate on taxable incomes between $80,000 and $87,000 from 37% to 32.5% from the 2016/17 income year. It should prevent approximately 500,000 taxpayers facing the 37% marginal income tax rate in the 2016/17 income year. It should also ensure that the average full-time wage earner will not move into the 37% tax bracket in the next three years.

Medicare levy and surcharge — low-income thresholds to increase

The low-income thresholds for the Medicare levy and surcharge will increase from the 2015/16 income year. The changes are in the Tax and Superannuation Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2016.

Medicare levy

The increases take into account movements in the consumer price index (CPI) so that low-income earners generally continue to be exempted from the Medicare levy.

The threshold for singles will increase to $21,335 (up from $20,896 for the 2014/15 year). For couples with no children, the threshold will increase to $36,001 (up from $35,261 for the 2014/15 year).

For single seniors and pensioners, the threshold will be increased to $33,738 (up from $33,044 for the 2014/15 year). For senior and pensioner couples with no children, the threshold will be increased to $46,966 (up from $46,000 for the 2014/15 year).

The child-student component of the income threshold for all families increases to $3,306 (up from $3,238 for the 2014/15 year).

Key aspects of the changes to the Medicare levy are summarised in the following table.

Medicare levy low-income thresholds for 2015/16

Taxpayer	*No levy (income does not exceed)*	*Reduced levy (income between)*	*Full levy (income exceeds)*
Individuals	$21,335	$21,336 – $26,668	$26,669

Families[1] with the following children and/or students:

Taxpayer	*No levy (income does not exceed)*	*Reduced levy (income between)*	*Full levy (income exceeds)*
0	$36,001	$36,002 – $45,001	$45,002
1	$39,307	$39,308 – $49,133	$49,134
2	$42,613	$42,614 – $53,266	$53,267
3	$45,919	$45,920 – $57,398	$57,399
4	$49,225	$49,226 – $61,531	$61,532
5	$52,531	$52,532 – $65,663	$65,664
6	$55,8372	$55,8382 – $69,7963	$69,7973

1 These figures also apply to taxpayers who are entitled to a dependant (invalid and carer) tax offset and those who are notionally entitled to a rebate for a dependant child or student (including sole parents).

2 Where there are more than six dependent children and/or students, add $3,306 for each extra child or student.

3 Where there are more than six dependent children and/or students, add $4,132 each extra child or student.

Medicare levy surcharge

The Bill also amends the A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999 from the 2015/16 income year. It increases the Medicare levy surcharge low-income threshold in line with movements in the CPI for:

- The surcharge payable on taxable income for a person who is married (or both married and a beneficiary of a trust) to $21,335 (up from $20,896 for the 2014/15 year)
- The surcharge on reportable fringe benefits to $21,335 (up from $20,896 in the 2014/15 year).

Pausing of Medicare levy surcharge and private health insurance rebate thresholds

The pause in the indexation of the income thresholds for the Medicare levy surcharge and the private health insurance rebate will continue for a further three years. This will achieve efficiencies of $744.2m over three years from 1 July 2018.

Income tax exemptions for ADF personnel deployed overseas

The government will provide a full income tax exemption for Australian Defence Force (ADF) personnel deployed on Operation PALATE II in Afghanistan. This income tax exemption has effect from 1 January 2016, and will remain in effect until 31 December 2016.

The government will also update the coordinates for Operation MANITOU in international waters, with effect from 14 May 2015, and Operation OKRA in the Middle East, with effect from 9 September 2015, to reflect the actual areas covered by the operations.

List of deductible gift recipients updated

Since the Mid-Year Economic and Fiscal Outlook 2015/16, the following organisations have been approved as specifically-listed deductible gift recipients (DGRs) from the following dates:

- Australian Science Innovations Incorporated from 1 January 2016
- The Ethics Centre Incorporated from 24 February 2016
- Cambridge Australia Scholarships Limited from 1 July 2016 to 30 June 2021.

List of deductible gift recipients updated - continued

In addition, from Royal Assent the following organisations have been approved as specifically-listed DGRs provided the gifts are made for education or research in medical knowledge or science:

- The Australasian College of Dermatologists
- College of Intensive Care Medicine of Australia and New Zealand
- The Royal Australian and New Zealand College of Ophthalmologists.

Taxpayers may claim an income tax deduction for gifts to these organisations of $2 or more.

Superannuation

Section highlights	
	> The threshold at which high income earners pay additional contributions tax will be lowered to $250,000 from 1 July 2017. The annual cap on concessional superannuation contributions will also be reduced to $25,000.
	> The tax exemption on earnings of assets supporting Transition to Retirement Income Streams will be removed from 1 July 2017.
	> A lifetime non-concessional contributions cap of $500,000 will be introduced.
	> The current restrictions on people aged 65 to 74 making superannuation contributions for their retirement will be removed from 1 July 2017.
	> Individuals with a superannuation balance less than $500,000 will be allowed to make additional concessional contributions where they have not reached their concessional contributions cap in previous years, with effect from 1 July 2017.
	> From 1 July 2017 all individuals up to age 75 will be allowed to claim an income tax deduction for personal superannuation contributions.
	> A low income superannuation tax offset (LISTO) will be introduced to reduce tax on superannuation contributions for low income earners from 1 July 2017.
	> The income threshold for the receiving spouse (whether married or de facto) of the low income spouse tax offset will be increased to $37,000 from 1 July 2017.
	> A balance cap of $1.6m on the total amount of accumulated superannuation an individual can transfer into the tax-free retirement phase will be introduced from 1 July 2017.
	> The anti-detriment provision in respect of death benefits from superannuation will be removed from 1 July 2017.

Div 293 tax income threshold reduced

The Div 293 threshold (the point at which high income earners pay addition contributions tax) will be lowered from $300,000 to $250,000 from 1 July 2017. The annual cap on concessional superannuation contributions will also be reduced to $25,000 (currently $30,000 under age 50; $35,000 for ages 50 and over).

Reducing the Div 293 tax income threshold will limit the effective tax concessions provided to high income individuals. Capping concessional contributions at $25,000 per year will still allow individuals to accumulate significant amounts of tax advantaged concessional superannuation.

The lower Div 293 income threshold will also apply to members of defined benefits schemes and constitutionally protected funds currently covered by the tax. Existing exemptions (such as state higher level office holders and commonwealth judges) for Div 293 tax will be maintained.

From 1 July 2017, the government will include notional (estimated) and actual employer contributions in the concessional contributions cap for members of unfunded defined benefits schemes and constitutionally protected funds. Members of these funds will have opportunities to salary sacrifice commensurate with members of accumulation funds. For individuals who were members of a funded defined benefits scheme as at 12 May 2009, the existing grandfathering arrangements will continue.

Tax exemption on earnings supporting income streams removed

The tax exemption on earnings of assets supporting Transition to Retirement Income Streams (TRISs) will be removed from 1 July 2017 (ie income streams of individuals over preservation age but not retired).

A rule that allows individuals to treat certain superannuation income stream payments as lump sums for tax purposes will also be removed.

These changes will ensure that TRISs remain fit for purpose, are not accessed primarily for their tax advantage, and still meet the objective of supporting people who want to remain in the workforce.

Lifetime cap for non-concessional superannuation contributions

A lifetime non-concessional contributions cap of $500,000 will be introduced. To ensure maximum effectiveness, the lifetime cap will take into account all non-concessional contributions made on or after 1 July 2007, from which time the ATO has reliable contributions records, and will commence at 7.30 pm (AEST) on 3 May 2016.

The lifetime non-concessional cap will replace the existing annual caps which allow annual non-concessional contributions of up to $180,000 per year (or $540,000 every three years for individuals aged under 65).

Lifetime cap for non-concessional superannuation contributions - continued

Contributions made before commencement cannot result in an excess. However, excess contributions made after commencement will need to be removed or be subject to penalty tax.

After-tax contributions made into defined benefits accounts and constitutionally protected funds will be included in an individual's lifetime non-concessional cap. If a member of a defined benefits fund exceeds their lifetime cap, ongoing contributions to the defined benefits account can continue but the member will be required to remove, on an annual basis, an equivalent amount (including proxy earnings) from any accumulation account they hold. The amount that could be removed from any accumulation accounts will be limited to the amount of non-concessional contributions made into those accounts since 1 July 2007. Contributions made to a defined benefits account will not be required to be removed. The government will consult to ensure broadly commensurate and equitable treatment of individuals for whom no amount of post 1 July 2007 non-concessional contributions are available to be removed.

The measure which will be available to all Australians up to age 74 will provide support for the majority of Australians who make non-concessional contributions well below $500,000 and flexibility around when they choose to contribute to their superannuation.

Harmonising contribution rules for people aged 65 to 74

The current restrictions on people aged 65 to 74 from making superannuation contributions for their retirement will be removed from 1 July 2017. People under the age of 75 will no longer have to satisfy a work test and will be able to receive contributions from their spouse.

Currently, there are minimum work requirements for Australians aged 65 to 74 who want to make voluntary superannuation contributions. Restrictions also apply to the bring-forward of non-concessional contributions. In addition, spouses aged over 70 cannot receive contributions.

The government will remove these restrictions and instead apply the same contribution acceptance rules for all individuals aged up to 75 from 1 July 2017. The measure will allow people aged 65 to 74 to increase their retirement savings, especially from sources that may not have been available to them before retirement, including from downsizing their home.

Catch-up concessional superannuation contributions

Individuals with a superannuation balance less than $500,000 will be allowed to make additional concessional contributions where they have not reached their concessional contributions cap in previous years, with effect from 1 July 2017. Amounts are carried forward on a rolling basis for a period of five consecutive years, and only unused amounts accrued from 1 July 2017 can be carried forward.

Catch-up concessional superannuation contributions - continued

The measure will allow people with lower contributions, interrupted work patterns or irregular capacity to make contributions, eg women or carers, to make “catch-up” payments to boost their superannuation savings. It will also apply to members of defined benefit schemes, with consultation undertaken to minimise additional compliance impact for these schemes.

Restrictions on personal superannuation contribution deductions eased

From 1 July 2017 all individuals up to age 75 will be allowed to claim an income tax deduction for personal superannuation contributions.

This effectively allows all individuals, regardless of their employment circumstances, to make concessional superannuation contributions up to the concessional cap. Individuals who are partially self-employed and partially wage and salary earners, and individuals whose employers do not offer salary sacrifice arrangements will benefit from these changed arrangements.

Individuals that are members of certain prescribed funds would not be entitled to deduct contributions to those schemes.

Prescribed funds will include all untaxed funds, all commonwealth defined benefits schemes, and any state, territory or corporate defined benefits schemes that choose to be prescribed.

Low income superannuation tax offset introduced

A low income superannuation tax offset (LISTO) will be introduced to reduce tax on superannuation contributions for low income earners from 1 July 2017.

The LISTO will provide a non-refundable tax offset to superannuation funds, based on the tax paid on concessional contributions made on behalf of low income earners, up to a cap of $500. The LISTO will apply to members with adjusted taxable income up to $37,000 that have had a concessional contribution made on their behalf.

The measure will effectively avoid the situation in which low income earners would pay more tax on savings placed into superannuation than on income earned outside of superannuation.

Low income spouse tax offset threshold increased

The income threshold for the receiving spouse (whether married or de facto) of the low income spouse tax offset will be increased from $10,800 to $37,000 from 1 July 2017.

The measure will improve the superannuation balances of low income spouses by extending the current spouse tax offset to assist more families to support each other in accumulating superannuation. The low income spouse tax offset provides up to $540 per annum for the contributing spouse and builds on the government’s co-contribution and superannuation splitting policies to boost retirement savings, particularly for women.

Superannuation transfer balance cap introduced

A balance cap of $1.6m on the total amount of accumulated superannuation an individual can transfer into the tax-free retirement phase will be introduced from 1 July 2017. Subsequent earnings on these balances will not be restricted. This will limit the extent to which the tax-free benefits of retirement phase accounts can be used by high wealth individuals.

Where an individual accumulates amounts in excess of $1.6m, they will be able to maintain this excess amount in an accumulation phase account (where earnings will be taxed at the concessional rate of 15%). Members already in the retirement phase with balances above $1.6m will be required to reduce their retirement balance to $1.6m by 1 July 2017. Excess balances for these members may be converted to superannuation accumulation phase accounts.

A tax on amounts that are transferred in excess of the $1.6m cap (including earnings on these excess transferred amounts) will be applied, similar to the tax treatment that applies to excess non-concessional contributions.

The amount of cap space remaining for a member seeking to make more than one transfer into a retirement phase account will be determined by apportionment. Commensurate treatment for members of defined benefits schemes will be achieved through changes to the tax arrangements for pension amounts over $100,000 from 1 July 2017. Consultation will be undertaken on the implementation of this measure for members of both accumulation and defined benefits schemes.

Anti-detriment death benefit provision removed

The anti-detriment provision in respect of death benefits from superannuation will be removed from 1 July 2017.

The anti-detriment provision can effectively result in a refund of a member's lifetime superannuation contributions tax payments into an estate, where the beneficiary is the dependant of the member (spouse, former spouse or child). Currently, this provision is inconsistently applied by superannuation funds.

Removing the anti-detriment provision will better align the treatment of lump sum death benefits across all superannuation funds and the treatment of bequests outside of superannuation. Lump sum death benefits to dependants will remain tax free.

GST and other indirect taxes

Section highlights

- GST will be extended to low value goods imported by consumers from 1 July 2017.
- A discussion paper on the “double taxation” of digital currencies under the GST regime has been released.
- Tobacco excise and excise-equivalent customs duties will be subject to four annual increases of 12.5% from 1 September 2017.
- The wine equalisation tax (WET) rebate cap will be reduced to $350,000 on 1 July 2017 and to $290,000 on 1 July 2018.
- The excise refund scheme will be extended to domestic distilleries and producers of low strength fermented beverages such as non-traditional cider from 1 July 2017.
- Access to refunds under the Indirect Tax Concession Scheme has been granted or extended to diplomats and consuls from Cyprus, Estonia and Finland as well as the Organisation for the Prohibition of Chemical Weapons.

GST extended to low value goods imported by consumers

GST will be extended to low value goods imported by consumers from 1 July 2017.

The intent of this measure is that low value goods imported by consumers will face the same tax regime as goods that are sourced domestically.

Overseas suppliers that have an Australian turnover of $75,000 or more will be required to register for, collect and remit GST for low value goods supplied to consumers in Australia, using a vendor registration model.

These arrangements will be reviewed after two years to ensure they are operating as intended and take account of any international developments.

This change will require the unanimous agreement of the states and territories prior to the enactment of legislation. This follows the in-principle agreement made on 21 August 2015 by the Council on Federal Financial Relations Tax Reform Workshop.

Discussion paper on GST treatment of digital currencies released

The government has released a discussion paper seeking public submissions on options to address the "double taxation" of digital currencies under the GST regime. According to the Treasurer, the paper moves the government a step closer to delivering an important change that will ensure that consumers are no longer "double taxed" when using digital currencies such as Bitcoin to buy goods and services already subject to GST.

Tobacco excise to increase

Tobacco excise and excise-equivalent customs duties will be subject to four annual increases of 12.5% from 2017 until 2020. The increases will take place on 1 September each year and will be in addition to existing indexation to average weekly ordinary time earnings. These four annual increases will take Australia's excise on a cigarette to almost 69% of the average price of a cigarette (assuming there are no other changes to cigarette prices over this period). This is close to the World Health Organisation recommendation of 70% of the price of a cigarette.

In addition, the duty-free tobacco allowance will be limited to 25 cigarettes (or equivalent) from 1 July 2017. This is down from the current allowance of 50 cigarettes.

Amendments will also be made to the Customs Act 1901 and the Excise Act 1901 to provide enforcement officers with access to tiered offences and appropriate penalties. This will increase the range of enforcement options available for illicit tobacco offences.

Wine equalisation tax rebate cap reduced

The government will address integrity concerns with the wine equalisation tax (WET) rebate by reducing the WET rebate cap and tightening eligibility criteria.

The WET rebate cap will be reduced from $500,000 to $350,000 on 1 July 2017 and to $290,000 on 1 July 2018 and tightened eligibility criteria will apply from 1 July 2019.

Under the tightened eligibility criteria for the rebate, a wine producer must own a winery or have a long-term lease over a winery and sell packaged, branded wine domestically. The final details on the tightened eligibility criteria, including the definition of a winery, will be resolved through further consultation.

Excise refund scheme extended to distillers

The government will extend the excise refund scheme to domestic spirit producers from 1 July 2017. The refund scheme currently provides eligible breweries with a refund of 60% of excise paid up to $30,000 per financial year.

From 1 July 2017 producers of whisky, vodka, gin, liqueur and producers of low strength fermented beverages such as non-traditional cider will be eligible for the excise refund scheme.

The scheme will not be extended to most alcopop producers (ie those that merely purchase the spirits and add the soda and other flavours), nor to wine producers who benefit from the wine equalisation tax (WET) rebate.

Access to refunds under Indirect Tax Concession Scheme extended for certain diplomats

The government has granted or extended access to refunds of indirect tax (including for GST, fuel and alcohol taxes) under the Indirect Tax Concession Scheme. The expanded refunds will apply to the diplomatic and consular representation of Cyprus, Estonia and Finland; and to the Organisation for the Prohibition of Chemical Weapons and its officers and representatives in Australia. Consistent with international practice, these concessions are reciprocal and reviewed periodically.

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

Tax administration

Section highlights

> A Tax Avoidance Taskforce will be established within the ATO to undertake enhanced compliance activities targeting multinationals, large public and private groups, and high-wealth individuals.

> Individuals who disclose information on tax avoidance to the ATO will receive stronger protection under the law from 1 July 2018.

> The government is encouraging all companies to adopt the Tax Transparency Code (TTC) from the 2016 financial year.

> The operation of the Australian Public Service including the ATO will be reviewed to achieve efficiencies and manage their transformation to a more modern public sector.

Tax Avoidance Taskforce

The government will provide the ATO with $679m over four years to establish a Tax Avoidance Taskforce, which is intended to enhance the ATO's current compliance activities targeting large multinationals, private groups and high-wealth individuals, and extend them to 30 June 2020. The Taskforce will be led directly by the Commissioner of Taxation, Chris Jordan.

The Taskforce will work closely with partner agencies including the Australian Crime Commission, the Australian Federal Police and AUSTRAC. New legislation will be introduced that will allow the ATO to improve information sharing and analysis with the Australian Securities and Investments Commission. Part of the work of the Taskforce will be testing the law through litigation where there is deliberate tax avoidance.

It is intended that the Commissioner will provide regular progress reports to the government on the work of the Taskforce, with the first report to be provided before the end of 2016.

External experts will be appointed to play a role in support of the Taskforce, including a panel of eminent former judges which will review proposed settlements with the ATO to ensure they are fair and appropriate.

The Taskforce is expected to recover $3.7b in tax liabilities over four years, and it is intended that the work of the Taskforce will also deter taxpayers from attempting to avoid their tax obligations.

Protection for tax whistleblowers

Under the new arrangements, individuals will receive improved protection if they disclose information to the ATO relating to tax avoidance behaviour and other tax issues. The types of individuals that will be protected include:

> Employees of taxpayers
> Former employees of taxpayers
> Advisers to taxpayers.

Whistleblowers will have their identities protected and will be protected from victimisation, criminal prosecution and civil action for disclosing information to the ATO.

The measure forms part of the government's Tax Integrity Package, and will apply from 1 July 2018.

Companies encouraged to adopt Tax Transparency Code

In the 2015/16 Federal Budget, the government announced a voluntary Tax Transparency Code. The Board of Taxation released a discussion paper on the Code in December 2015, and recommended that businesses with aggregated TTC Australian turnover of at least A$100m but less than A$500m should adopt Part A of the Code, which covers:

> A reconciliation of accounting profit to tax expense and to income tax paid or income tax payable
> Identification of material temporary and non-temporary differences
> Accounting effective company tax rates for Australian and global operations (pursuant to the Australian Accounting Standards Board (AASB) guidance).

It was recommended that large businesses (ie businesses with aggregated TTC Australian turnover of A$500m or more) adopt Parts A and B of the TTC. Part B of the TTC covers:

> The business' approach to tax strategy and governance
> A tax contribution summary for corporate taxes paid
> Information about international related party dealings, financing and tax concessions.

In this Budget (2016/17) the Government announced that it is committed to encouraging greater tax transparency within the corporate sector, especially by multinational corporations, and encourages all companies to adopt the TTC from the 2016 financial year onwards.

Public sector efficiency review

The standard annual efficiency dividend will be increased by 1.5% in 2017/18, 1.0% in 2018/19 and 0.5% in 2019/20 to achieve efficiencies in the operation of the Australian Public Service. Further, the government will reinvest $500m for specific initiatives to assist agencies to manage their transformation to a more modern public sector.

In relation to the ATO, the government will achieve efficiency savings of $21.8m over four years from 2016/17 by:

- Reducing stand alone and co-located ATO shopfronts in favour of myGov shopfronts
- Actively promoting digital service delivery
- Expanding ATO external compliance assurance processes
- Implementing more efficient processes for external scrutiny of the ATO.

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