Grant Thornton

2009-10 Federal Budget Summary

13 May 2009

Welcome to the 2009-10 edition of Grant Thornton's Federal Budget Summary. On 12 May 2009, the Federal Treasurer, the Hon Wayne Swan, handed down this very important Budget.

In the midst of the greatest recession in generations, Treasurer Wayne Swan has announced a forecast Budget deficit in the order of $57.6 billion for 2009-10. This, coupled with the forecast drop in GDP of 0.5%, sets the bleak economic backdrop for the wide range of changes announced in the Budget.

The Budget theme was "nation building for recovery", and new infrastructure spending of $22 billion was announced for roads, rail, ports, clean energy, research, health and communications. Pensioners will benefit, and there are workforce incentives including the large paid parental leave scheme.

Funding for this will largely come from increased Government debt, which will be repaid as the economy recovers. Income tax collections are declining. The only material remedial action for this in the Budget is to reduce superannuation concessions, reduce private health insurance rebates from July 2010, and remove other perceived tax breaks that favour the wealthy.

Many significant taxation law changes will not be seen until the finalisation of the Henry Review. In its broad ambit, that Review deals with the significant issue of the Federal/State tax mix, and the removal of excessive State taxes is one area that we hope will be reformed. The Budget has announced the adoption of other reform measures that have been considered by the Board of Taxation, including international tax reform.

The Budget announces major future changes to the research and development concession, which will be a boost to innovation. Much more will be heard about this in the near future.

Importantly, the Government has committed over $300 million over four years to fund ATO compliance enforcement activities, focusing on wealthy individuals and large and medium businesses. This is going to result in taxpayers being more conscious of managing all tax risks, in order to be ready for ATO reviews.

The Treasurer has called on Australians to embrace the Government's effort to invest for the future in the face of the global recession. Australia now faces increased debt, and we live in the hope that the massive injection into infrastructure, innovation and jobs creation will work in our favour… when the economy recovers.

Contents

The economy and major initiatives

Economic growth

- Negative GDP of -0.5% for 2009-10, 2.25 per cent at 2010-11 and 4.5 per cent in 2011-12 and 2012-13

Fiscal outlook

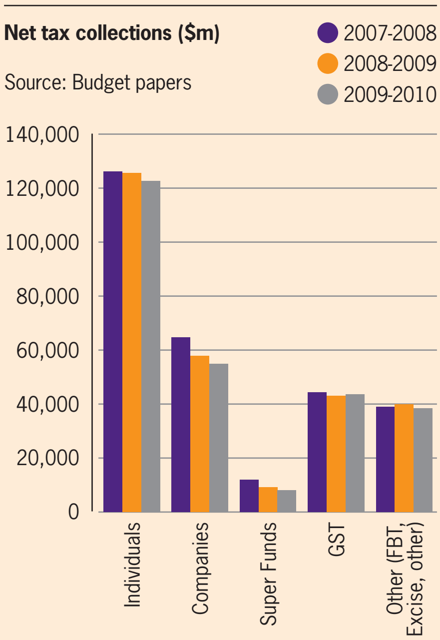
- Inflation at 1.75% for 2009-10
- Overall Budget deficit of $57.6 billion or close to 5% of Australia's Gross Domestic Product (GDP)

Unemployment

- Expected at 8.25% for 2009-10, 8.5% for 2010-11 and 7.5% for 2011-12

Tax collections

- Overall taxation revenue forecast to drop from $286 billion in 2007-08 (actual) to $276 billion in 2008-09 (estimated) and $268 billion in 2009-10
- Corporate tax collections will decrease by more than 15% over this period and are not forecast to recover to 2007-08 levels in real terms until at least 2014
- Individual taxes will remain the strongest contributor to the Government's tax take as illustrated on graph below



Infrastructure

- Approval for road, rail and port funding infrastructure projects across the country amounting to $22 billion, including $8.5 billion on roads, rail and ports, $4.6 billion on metropolitan rail projects, $3.4 billion on road networks and $4.5 billion on a clean energy initiative

Innovation

- The Government has announced that it has accepted some of the recommendations in respect of the R&D tax concession regime contained in the 2008 Venturous Australia Report. The new scheme is to give credits for expenditure incurred on eligible R & D activity carried out after 1 July 2010

Pensions

- From 20 September 2009, pensions will increase by $32.49 per week for singles and $10.14 per week for couples

Housing

- The Government will extend the first home owner's grant scheme boost for six more months, but it will only continue at the full rate until 30 September 2009
- From October until December this year the grant will be reduced from $14,000 to $10,500 for established homes, and from $21,000 to $14,000 for newly built homes

Small Business Tax Break Increase

- Provision of immediate additional assistance for small businesses by increasing the Small Business Tax Break to 50% for eligible assets ordered between 13 December 2008 and 31 December 2009, in addition to assistance for small businesses to take advantage of e-business opportunities

Education

- Committing $2.6 billion from the Education Investment Fund for priority infrastructure projects in Australia's tertiary institutions and research agencies

  This includes:
  - $934 million for 11 teaching and learning projects, eight research-based projects, and 12 vocational education and training projects around the nation
  - $901 million for 21 research projects in space, marine, climate and nuclear science
  - and a further $750 million for future funding rounds from the Education Investment Fund
- These investments build on the previously announced $14.7 billion modernisation of Australia's primary and secondary schools
- Investing $491 million over four years to uncap the number of university places from 2012, starting with increased places from next year. This will allow an extra 50,000 students to commence university courses by 2013
- Committing $437 million over four years, to give people from disadvantaged backgrounds an opportunity for a university education

Health

- Proposal to invest an additional $2.5 billion over five years to drive hospital and health workforce reform, in cooperation with the States and Territories
- The Government will also draw $3.2 billion from the Health and Hospitals Fund to expand and modernise key public hospitals across Australia, improve cancer treatment facilities, and support cooperative research between clinical researchers and health professionals
- Provision of $121 million over four years to relieve pressure on maternity services, and $134 million over four years in a new Rural Health Workforce Strategy to attract medical practitioners to areas of need

Environment – Clean Energy Initiative

- The Government will introduce the Carbon Pollution Reduction Scheme and expand the national renewable energy target and will invest $4.5 billion in a new Clean Energy Initiative – the critical infrastructure that supports low-emission technologies and creates low-pollution jobs
- Establishment of Renewables Australia, a new innovation body to promote the development, commercialisation and deployment of renewable technologies with initial funding of $465 million
- Establishment of up to four new Solar Flagship projects to demonstrate the viability of solar technologies with a $1.5 billion funding allocation
- The Government will support projects that demonstrate carbon capture and storage on an industrial scale from coal-fired power stations

Paid Parental Leave

- The Government is investing $731 million over five years to deliver a Paid Parental Leave scheme for the first time
- The Paid Parental Leave scheme enables parents to maintain links with their employer and to receive an income whilst nurturing their child
- From 1 January 2011, eligible parents will receive taxable payments at the rate of the Federal Minimum Wage, for up to 18 weeks

Personal wealth

Income tax rates:
1 July 2009 - 30 June 2010

Individual taxes are the largest contributor to Government tax collections by far. Accordingly, the sustainability of any Budget is dependent on ensuring that personal tax rates and scales are properly set.

Effective from 1 July 2009:

- the 30 per cent threshold will be raised to $35,001
- the 40 per cent tax rate will be reduced to 38 per cent

Proposed income tax rates: 1 July 2009 – 30 June 2010

Resident		Non-resident	
Taxable income ($)	Tax payable ($)	Taxable income ($)	Tax Payable ($)
0 - 6,000	Nil	0 - 35,000	29%
6,001 - 35,000	Nil + 15% of excess over 6,000	35,001 - 80,000	10,150 + 30% of excess over 35,000
35,001 - 80,000	4,350 + 30% of excess over 35,000	80,001 - 180,000	23,650 + 38% of excess over 80,000
80,001 - 180,000	17,850 + 38% of excess over 80,000	180,001 above	61,650 + 45% of excess over 180,000
180,001 above	55,850 + 45% of excess over 180,000		

For residents, from 1 July 2010:

- the 30 per cent threshold will be raised to $37,001
- the 38 per cent rate will be reduced to 37 per cent

Medicare levy and private health insurance rebate

From the 2008-09 income year, the Medicare levy low-income thresholds for singles will increase to $17,794 and to $30,025 for those who are members of a family. The additional amount of threshold for each dependent child or student will increase to $2,757.

The Medicare levy low-income threshold for pensioners below Age Pension age will also be increased from 1 July 2008 to $25,299. This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy while they do not have an income tax liability.

Medicare Levy Surcharge (for those without private health insurance) from 1 July 2010

Single		Couple	
Income threshold	Rate	Income threshold	Rate
<75,000	0%	<150,000	0%
75,001 – 90,000	1%	150,001 – 180,000	1%
90,001 – 120,000	1.25%	180,001 – 240,000	1.25%
> 120,001	1.5%	> 240,001	1.5%

The private health insurance rebate for high income families has been abolished. This works as follows:

Reduction in private health insurance rebate from 1 July 2010

	Single		Couple	
	Monthly ($)	Annually ($)	Monthly ($)	Annually ($)
	<75k		<150k	
Rebate	30%	30%	30%	30%
Net premium	67	804	259	3,108
	75k – 90k		150k – 180k	
Rebate	20%	20%	20%	20%
Net premium	76	912	296	3,552
Premium increase	11	132	37	444
	90k – 120k		180k – 240k	
Rebate	10%	10%	10%	10%
Net premium	86	1,032	333	3,996
Premium increase	19	228	74	888
	>120k		>240k	
Rebate	0%	0%	0%	0%
Net premium	95	1,140	370	4,440
Premium increase	28	336	111	1,332

Assumed premium:

- singles $95 per month
- couples $370 per month

Family Tax Benefit (FTB)

The method of indexing thresholds and payment rates of FTB is to be reformed from 1 July 2009.

Special Disability Trusts

- Unexpended income of Special Disability Trusts will be taxed at the relevant beneficiary's personal income tax rate rather than at the top marginal rate of 46.5% from the 2008-09 income year
- Commencing in the 2009-10 income year the CGT main residence exemption is extended to a residence that is owned by a Special Disability Trust and used by the relevant beneficiary as their main residence

Work bonus for age pensioners

From 20 September 2009, a 50% discount will apply to the first $500 of income per fortnight when income testing for entitlement. This will provide a maximum benefit of $125 per fortnight and will replace the Pension Bonus Scheme which will close to new entrants from the same date.

Business owners

Division 7A

The deemed dividend rules in Division 7A will further limit the ability of shareholders of private companies, and their associates, to use company assets for less than arm's length rates. From 1 July 2009, a deemed dividend will arise where company assets (for example, real property and chattels such as boats) are used by way of a licence or right to use and an arm's length price is not paid. Previously, this rule only applied where a proper lease was in place.

Further amendments will seek to prevent the use of corporate limited partnerships to circumvent the Division 7A provisions.

Small Business Tax Break

The value of the much heralded Small Business and General Business Tax break has been increased for small businesses. The rate of the one-off bonus deduction available to small businesses (those with a turnover of $2 million or less) acquiring eligible assets between 13 December 2008 and 31 December 2009 (installed and ready for use by 31 December 2010), will rise to 50%. For all other businesses, the previously announced 30% and 10% bonuses will continue to apply, including the earlier timeframes.

Non commercial losses

The Government will tighten the non-commercial losses rules. High income individuals will be prevented from offsetting excess deductions from non-commercial business activities against salary and other income from the 2009-10 income year. Rather the excess will be quarantined to be offset against future income from the business activity.

- The existing non-commercial loss rules will continue to apply to taxpayers with an adjusted taxable income of $250,000 or less
- Taxpayers will still have the ability to apply to the Commissioner of Taxation for relief from these rules if there are exceptional circumstances

Entrepreneurs' offset – income test delayed

The proposed income test for the entrepreneurs' tax offset will be deferred for twelve months to the start of the 2009-10 income year. The proposed income test will limit access to the offset by restricting eligibility for singles from $75,000 and families from $120,000 (annual adjusted taxable income).

Withholding from closely held trusts

The Tax File Number (TFN) withholding procedures will be extended to closely held trusts, including family trusts, with effect from 1 July 2010. Such trusts will be required to withhold amounts from trust distributions at the top marginal tax rate where taxpayers have not provided a TFN to the trustee. Individuals who have tax withheld in this way shall be able to claim a credit for that tax in their tax return. The measure will not apply to income upon which tax is directly payable by the trustee, for example, on income assessable to minors.

CGT - fixed trusts and limited rollover relief

The Government will introduce a limited CGT rollover for assets transferred between fixed trusts (ie, trusts that have the same beneficiaries with the same entitlements and no material discretionary elements). This is a limited restoration of the trust cloning exceptions that were removed in October 2008. The new measure will apply from 1 November 2008.

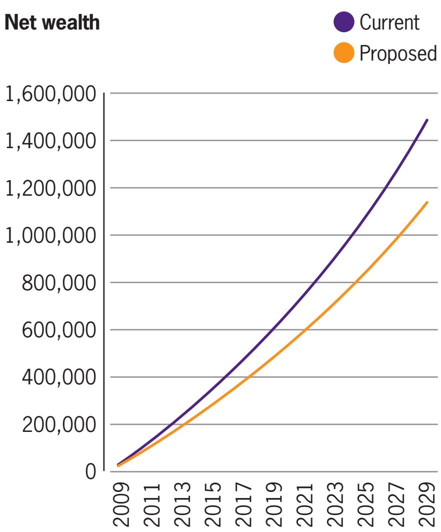
Superannuation and retirement incomes

Contribution caps

The concessional contribution cap will be reduced from $50,000 to $25,000 from 1 July 2009. The transitional cap applicable to over 50's for the 2009-10 to 2011-12 years will be reduced from $100,000 to $50,000.

The non-concessional contribution cap will remain unchanged at $150,000 for 2009 and 2010 (or $450,000 over three years). In the future, the non-concessional contributions cap will only increase when the new lower $25,000 cap is increased by indexation. It will be calculated as six times the level of the (indexed) concessional contributions cap.

The graph below highlights the difference in net wealth for a taxpayer who makes the maximum concessional contribution each year via salary sacrifice. Under the proposed caps, the net wealth will decrease by approximately $300,000 (15.8%) due to the additional tax payable.



Assumptions: $150k salary. $50k super vs $25k super + balance invested elsewhere. 5% earning rate.

Co-contribution

The Government will temporarily reduce the co-contribution to 100% (ie, $1 for each dollar of contribution) from the 2009-10 to 2011-12 years. For 2012-13 and 2013-14, the rate will be 125% and will revert back to 150% for the 2014-15 and later income years.

Pension drawdown relief extended

The 50% reduction in minimum pensions announced for this year, will now also apply for the year commencing 1 July 2009.

Seniors' health card and tax-free super

The Government will not proceed with proposed changes to include tax-free superannuation income in the income test for the Commonwealth Seniors Health Card. Salary sacrificed amounts, however, will be included.

Trans Tasman portability

The Government has agreed in principle to permit transfers of superannuation savings between Australian superannuation funds and the New Zealand KiwiSaver funds. Under current rules, members of Australian superannuation funds can only transfer retirement savings within Australian superannuation system.

Age Pension age

The Government will increase the qualifying age for the Age Pension and the Commonwealth Seniors Health Card for men and women to 67 years of age from 2023. The transition to the higher Age Pension age will commence in July 2017, with the qualifying age increasing by six months every two years, to reach 67 on 1 July 2023.

Henry review

In conjunction with the Federal Budget, the Government has released the first part of the Henry Review into Australia's taxation system, being a report on the retirement income system.

The report recommends that the current three pillar approach to retirement be retained, comprising a means tested Aged Pension, compulsory saving via the Superannuation Guarantee, and voluntary savings for retirement.

Some of the recommendations have been incorporated into the Budget, including the increase in the pension age discussed above. Other recommendations are expected to be implemented in future years, including an alignment of the age pension age and the superannuation preservation age.

Corporate

Managed Investment Trusts (MITs)

The Government has said it will implement the Board of Taxation's interim advice on the taxation of managed funds to provide deemed capital account treatment for gains and losses made on disposal of investment assets by MITs, subject to appropriate integrity rules.

The Government considers that implementing the Board's advice will provide reduced compliance costs as well as certainty to the managed funds sector, especially in light of ATO concerns that some disposals by MITs should be treated on revenue account.

This measure will mean that where an Australian MIT makes an irrevocable election to apply the CGT regime to disposals of eligible assets, resident investors will be entitled to the CGT discount on eligible taxable gains distributed by MITs. Non-resident investors will be exempt from Australian tax on distributions of gains on disposal of eligible MIT assets unless the assets are taxable Australian property.

Amendments to uniform capital allowances

The Government has announced that it will make 28 technical amendments in regards to the Uniform Capital Allowance rules. The majority of the amendments apply from 1 July 2009, however some apply retrospectively from 1 July 2001.

Broadly, the technical amendments include changes to the rules for:

- mining rights
- low value pools
- the interaction of the uniform capital allowance rules and the hire purchase arrangements
- sale and leaseback arrangements
- the definition of depreciating assets
- the calculation of costs

Off-market share buybacks

The off-market share buyback rules broadly define the dividend and capital component of the purchase price.

In relation to the dividend component, the rules provide that the deemed dividend is frankable and debited against the company's franking account. In addition, market value substitution rules apply in relation to the purchase price of the shares to ensure that excessive franking credits and notional losses are not created.

However, the law does not currently prescribe the split between capital and dividend and its interaction with the anti streaming rules. As a consequence, this has resulted in uncertainties when undertaking off market share buybacks. The ATO has previously issued Practice Statement Law Administration (PSLA) 2007/9 to clarify these uncertainties and the Board of Taxation has prepared a report recommending various clarifications to the law governing off-market share buybacks.

As part of the Budget, the Government will implement various recommendations proposed by the Board of Taxation, including:

- clarifying the income tax law to specify the basis for determining the capital/dividend split and confirming that certain integrity rules do not apply to tender-style off-market share buybacks
- establishing a self-executing specific provision to debit the franking account of a company that undertakes an off-market share buyback to cancel the tax benefit of streaming imputation credits from non-resident to resident shareholders
- denying notional losses to shareholders that participate in off-market share buybacks conducted by listed companies

Essentially, the changes codify the ATO's PSLA 2007/9 and aim to provide certainty surrounding the tax implications of off-market share buybacks, potentially reducing the need to apply for a public ruling.

International

Australian international tax regime

The Government has acknowledged the complexity in the interpretation and implementation of Australia's international tax regime and a rewrite of Australia's international tax rules is proposed. In particular, changes will be introduced to specific international tax integrity measures.

The **controlled foreign company (CFC) rules** that operate to attribute passive income in Australia in respect of controlled offshore operations will be modernised and rewritten into current tax legislation with updated definitions of what constitutes active and passive income.

The existing exemptions from the CFC rules will primarily be retained, including the listed country exemptions. In addition, exemptions are proposed to be introduced for complying superannuation entities. A choice of attribution methods will apply to income to be attributed under the CFC rules.

The **foreign investment fund rules**, which operate in respect of minor interests in offshore entities, will be repealed and replaced with specific, narrowly defined anti-avoidance rules that apply to an offshore accumulation or roll up for funds.

The **transferor trust rules**, which are triggered when value is transferred to a non-resident trust estate, will be amended to enhance their effectiveness and improve their integrity.

The provisions that currently operate in respect of deemed present entitlements from foreign trusts will be repealed.

Changes to the thin capitalisation regime for approved authorised deposit taking institutions

Changes will be made to the thin capitalisation regime for approved authorised deposit taking institutions (ADIs), effective from 1 January 2009.

The changes will clarify how treasury shares, the previous insurance asset known as excess market value over net assets and capitalised software costs, will be recognised under the thin capitalisation provisions.

In addition, the changes will clarify how the Australian equivalents of International Financial Reporting Standards apply to certain thin capitalisation arrangements for ADIs, given expiry of the transitional provisions that previously provided relief to affected entities.

Individuals – foreign sourced income

The current tax exemption for foreign employment income where an Australian resident individual works overseas for greater than 90 days is to be abolished.

Instead, a foreign tax offset for foreign tax paid will be available.

The change is designed to collect additional tax in Australia where the foreign tax amount is less, and to stop access to Government benefits through having a lower taxable income.

The new rules will not apply to aid workers and defence personnel, who will continue to enjoy the exemption.

This measure has the potential to increase the complexity of the tax return process as well as having a negative cash flow impact for the individual concerned. That is, the individual may be required to pay tax in Australia prior to having paid tax offshore and would therefore be required to subsequently lodge an amendment request to claim the foreign tax offset. The details of the administrative arrangements and the commencement date for application of these rules are yet to be announced.

Employee taxation

The ability to defer tax on issues of options and shares under "qualifying" share schemes has been abolished, effective immediately.

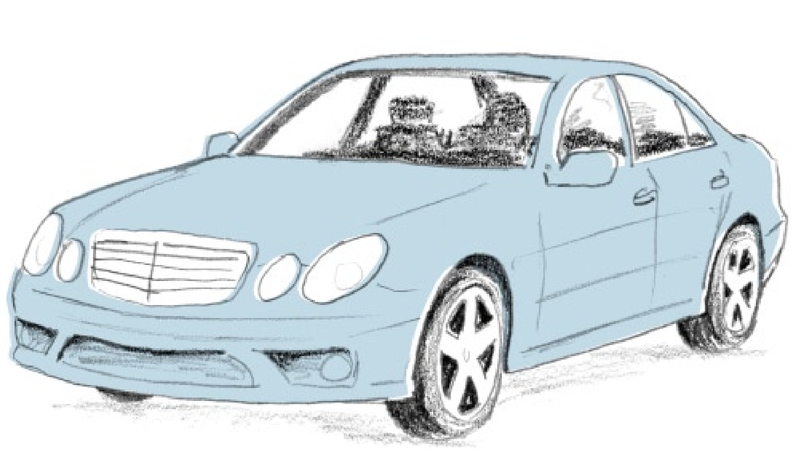
This means that all issues of options and shares after 7.30pm on 12 May 2009, under qualifying and non-qualifying schemes, including existing schemes, will be taxable up front on the discount (the difference between market value and the amount paid).

In addition, the $1,000 reduction of the amount subject to tax for certain qualifying schemes that was previously available to all employees is now only available if the employee's taxable income (including reportable benefits) is less than $60,000.

Many share plans are designed to have a low up front discount as paying the tax up front and bringing the shares into the CGT net is an attractive option. Another common strategy for executive share plans was to defer income tax until a much later time, usually when the shares were sold.

Cash flow could be a major issue for employees affected by this change. That is, an issue of options or shares does not generate any cash flow to fund the tax. This will be particularly relevant to current schemes designed to take advantage of the tax deferral option.

Further, some employees will not know whether their taxable income will exceed $60,000 until the end of the financial year, and will therefore not know whether they will qualify for the $1,000 discount. This could severely impair their ability to decide whether to take up options or shares they are offered under a scheme.



Salary packaging – good news

Rumours spreading pre Budget were that salary packaging of entertainment costs in the not-for-profit sector would be hit hard. Thankfully, that has not come to fruition. This means that the many not-for-profit organisations that struggle for funding and rely heavily on salary packaging to remunerate their employees at a level anywhere close to the commercial sector, can continue to use such strategies. These organisations commonly use meal entertainment as a packaging benefit, but should also consider offering venue hire and holiday accommodation as a further benefit where this is not already in place.

Cars were also left untouched and therefore remain attractive as a salary packaging option in all sectors. If anything, the Tax Break available to organisations investing in new assets may even cause packaging of cars to become more attractive in the short term. That is, the lessor or employer (depending on the particular arrangement) may qualify for an additional tax deduction, the benefit of which can be passed on to the employee through a reduced salary sacrifice.

The Government also confirmed its earlier announcement that salary packaging of donations to deductible gift recipients will be exempt from FBT. This is effective from the 2008-09 FBT year.

GST and indirect taxes

The Treasurer has accepted most (41 of 46) of the recommendations by the Board of Taxation following its review of the administration of the GST law. The changes will:

- improve the efficiency of the law
- reduce compliance costs
- harmonise GST and income tax rules for self assessment and rulings
- adopt more principled and flexible GST grouping rules
- simplify GST adjustment rules
- reform the GST treatment of sales of going concerns and farm land

The new rules will have effect from 1 July 2010.

The Government has also announced that it will initiate reviews of the following provisions:

- margin schemes generally
- GST in respect of financial services
- GST in respect of cross border transactions to simplify and reduce the need for non-residents to register under the Australian system

Other changes include the following:

- **Representatives of incapacitated entities:** representatives will be liable for, or entitled to, the GST consequences arising from their actions during their appointment. This has effect from 1 July 2000. However, where the representative acts in the name of the incapacitated entity the activities will be treated as those of the entity and not the representative.
- **Cross border transport supplies:** compliance costs are to be reduced for transport of both imported and exported goods from 1 July 2010. The measures will:
  - move the GST liability for the domestic transport of imported goods from transport service suppliers to the importer. The value of domestic transport will then be included in the value of the taxable importation
  - eliminate the GST liability for domestic transport services provided to non residents
  - change the definition of 'place of export' for goods (other than postal goods) shipped by container from the place of 'containerisation' to the place of shipment and in so doing harmonise containerised non postal goods with postal goods
  - ensure that sub contracted domestic transport for goods to be exported will be taxable (and creditable for the acquirer)
- **GST treatment of CPRS units:** All eligible international units and all Kyoto units will be treated as personal property rights and not rights within the meaning of real property. This will apply from the introduction of the CPRS on 1 July 2011.

Alcohol excise (Alcopops)

In 2008, the Government attempted to introduce an alcopops excise surcharge on blends of alcohol and soft drinks. Although the enabling legislation was defeated in Parliament earlier this year, excise amounting to about $424m was collected. The Government has now introduced a bill to validate the collection of the surcharge up to the present time and will reintroduce legislation to impose the alcopops excise on a permanent basis.

Tax definitions of beer and wine

The definitions will be amended to ensure that beer and wine based products which attempt to mimic spirit based products will be taxed as spirits.

Research and development

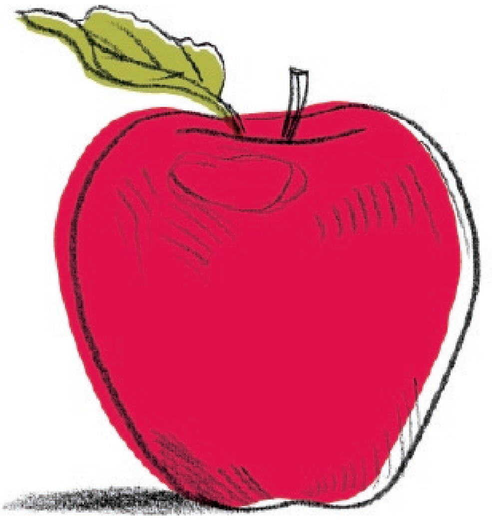
The Government has announced that it has accepted some of the recommendations in respect of the R&D tax concession regime contained in the 2008 Venturous Australia Report. The new scheme is to give credits for expenditure incurred on eligible R&D activity carried out after 1 July 2010. The key elements of the new scheme are:

- 40% non-refundable credit and a 45% refundable credit for companies with a turnover less than $20 million (compared to the current 37.5% non-refundable credit and 37.5% refundable credit currently available)
- 40% non-refundable credit for companies with a turnover more than $20 million (compared to a 37.5% non-refundable credit currently available)
- There is no cap on eligible expenditure for companies entitled to the refundable credit (there is currently a cap of $1 million)
- The definition of eligible R & D activity will be tightened to ensure the credits are only available for genuine R & D. Further details on this will be released in the coming months

For the 2009-10 year, the existing scheme will be maintained subject to the alteration of the current cap on eligible expenditure for companies eligible to receive the tax offset from $1 million to $2 million.

The Premium Concession and International Premium tax offsets will be abolished.

The changes represent a welcome reform and should stimulate further R & D activity over the coming years. Australia's future prosperity depends to a large extent on the success of Australian business in developing new products, systems and processes that make our goods and services competitive internationally. It is disappointing, however, that the changes are deferred to the 2010-11 year and that the early access recommendation was not accepted.



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