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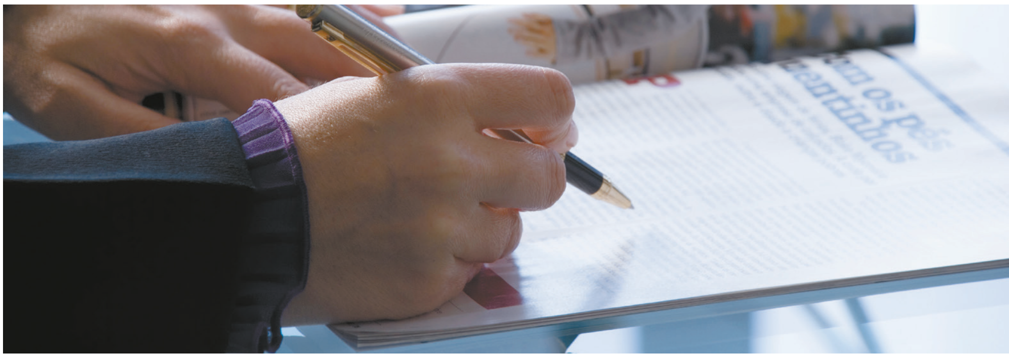

TECHNICAL UPDATE

TAX CHANGES INTRODUCED AS PART OF THE MID-YEAR ECONOMIC AND FISCAL OUTLOOK 2012-13 (MYEFO 2012-13).

THE MYEO 2012-13, WHERE THE FEDERAL GOVERNMENT REPORTS ON ITS FISCAL PERFORMANCE VIS-À-VIS THE 2012-13 FEDERAL BUDGET, PROVIDED FEW SIGNIFICANT ANNOUNCEMENTS OF NEW TAXATION MEASURES. THE CHANGES ANNOUNCED ARE BRIEFLY SUMMARISED BELOW.

Monthly tax instalments for large companies

Phased in from 1 January 2014, large companies will move from the current quarterly instalments of tax under the Pay As You Go (PAYG) system to monthly instalments. The phase-in applies such that the new instalment system applies for companies with turnover of:

- $1 billion or more – from 1 January 2014
- Between $100 million and $1 billion – from 1 January 2015
- Between $20 million and $100 million – from 1 January 2016

Removal of concessional Fringe Benefits Tax (FBT) treatment of salary sacrificed "in-house" fringe benefits

In-house fringe benefits arise when employees receive goods or services from their employer or an associate of their employer that are identical or similar to those provided to customers of such employer or associate in the ordinary course of business.

In-house fringe benefits can currently, in some circumstances, be taxed under the FBT system on a concessional basis, such that they are valued at 75% of their arm's length selling price, reduced by a further $1,000. Under the Government's proposed changes, such concessional basis will be denied where such benefits are supplied as part of a 'salary sacrifice' arrangement. The taxable value of the salary sacrificed in-house benefits will be the lowest price that the benefit is sold to the public or the arm's length consideration, depending of the type of benefit.

Non salary sacrificed in-house benefits will continue to receive the concessional treatment.

The changed treatment will apply to new salary sacrifice arrangements from its announcement on 22 October2012 and to pre-existing salary sacrifice arrangements from 1 April 2014

SECTOR

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More tax audits and compliance activities

The Australian Tax Office will receive an additional $390 million to increase compliance activities. This will include:

- Ensuring Australians continue to pay their 'fair share' of tax and that a 'level playing field' is maintained for small businesses
- Counter the promotion and participation of tax avoidance and tax evasion schemes
- Target non-compliance in relation to profit from criminal activities and organised crime
- Following up long term outstanding tax debts and outstanding lodgements of tax returns
- The Australian Crime Commission will also receive an additional $2.4million to continue its 'Project Wickenby' crackdown on offshore tax evasion.

The Government expects to collect an additional $2 billion from this measure.

Superannuation – death benefit concessions

Under the current law, where a superannuation fund is paying a tax exempt pension to a member who dies, the member's account ceases to be in pension mode. This means the income and capital gains made under the deceased members account will become subject to tax. Trustees are currently taxed on capital gains made on disposal of assets that are required to fund the pay out of the deceased member's benefits.

The Government has announced amendments to the law to allow the tax exemption for earnings on assets supporting superannuation pensions to continue following the death of a fund member in the pension phase until the deceased member's benefits have been paid out of the fund (within the current time frames required in the law). This change will have effect from 1 July 2012.

Change to the manner in which the Private Health Insurance rebate is calculated

In order to place limits on the cost to the Budget of the private health insurance rebate, it will be calculated using commercial premiums as at 1 April 2013 and then indexed annually by the lesser of the CPI or the actual increase in commercial premiums.

Reduction to Baby Bonus for second and subsequent children

From 1 July 2013, the Government will reduce the Baby Bonus payment for second and subsequent children to $3,000.

GST – reforms to the GST margin scheme

The Government will not proceed with the proposed restructure of the margin scheme provisions announced in the 2010-11 Budget. The Government has concluded that the restructure was likely to deliver little, if any, benefit. However, the Government will proceed with the minor technical amendment to ensure that a valuation can be obtained for the purposes of using the margin scheme for subdivided land. This will ensure that taxpayers are able to use the consideration method, the valuation method, or the GST-inclusive market value method, whichever is appropriate, when calculating the margin on a taxable supply of subdivided land.

The Government previously announced these amendments would apply from 1 July 2012, but this application date has now been extended to the first quarterly tax period after Royal Assent of the amending Bill.

GST – restrictions on GST refunds

The Government has made revisions to its 2009-10 Budget announcement regarding the proposal to amend the GST law to clarify the restriction on refunds of overpayments of GST. The revisions are in response to the Federal Court decision in International All Sports v Commissioner of Taxation [2011] FCA 824 ("Sportsbet"), which confirms that the Commissioner of Taxation is obliged to refund GST where an overpayment arises as a result of a miscalculation of the GST payable. The proposed changes will clarify the circumstances in which GST refunds will be restricted and will include circumstances where potential GST refunds arise as a consequence of miscalculations of GST on a supply.

The amendments will provide a self-assessment mechanism for taxpayers that have overpaid GST (as compared to the current system where the Commissioner has a discretionary power to refuse payment of refunds). However the refunds will only be available where:

- the amount of the overpayment has not been passed on to the recipient of the supply e.g. where the additional GST was not included in the GST on a tax invoice; or
- the amount has been passed on to the recipient who is not registered for GST and the overpayment has been reimbursed to the recipient.

Consistent with the original announcement of the restrictions on GST refunds by the Assistant Treasurer, the amendments will apply to tax periods commencing on or after 17 August 2012.

BDO COMMENT

The MYEFO 2012-13 discloses that in a number of areas Federal Government revenues have been less than forecast in forward estimates. In light of this, and the Government's continuing commitment to return the Budget to surplus, it is heartening to see that the Government has not used the MYEFO 2012-13 to introduce significant new taxation revenue measures.

MORE INFORMATION

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