



# FirstTech Budget briefing

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## Introduction

Federal Treasurer Wayne Swan has handed down his fourth Budget promising to return the Budget to surplus in 2012-13.

The fiscally conservative Budget focuses on building Australia's workforce and limiting spending in a number of key areas.

The Budget includes a number of changes to taxation, superannuation and social security benefits.

These changes include providing some relief from excess concessional contributions tax for first-time and inadvertent breaches, removing Low Income Tax Offset on the unearned income of minors, rationalising Fringe Benefits Tax on motor vehicles and changing participation requirements for social security benefits.

This FirstTech Budget Briefing provides a summary of the relevant budget announcements and how they may affect your clients.

## Superannuation

### Excess contributions tax relief from 1 July 2011

The Government has announced it will provide a once-only opportunity to withdraw excess concessional contributions made during the 2011/12 or later financial years. This withdrawal opportunity is limited to excess concessional contributions of up to \$10,000 (not indexed).

Instead of being subject to excess concessional contributions tax of 31.5% and contributions tax within a super fund, the refunded excess concessional contributions will be assessable personally to the client and taxed at their marginal tax rate.

#### *FirstTech Comment*

This measure should assist many clients who unintentionally breach their concessional contributions cap once in future financial years. However, the unchanged complexity of the contribution cap rules may still see many clients penalised for a second concessional cap breach in the future.

In addition, several important questions about the operation of the rule remain to be clarified, including:

- the interaction of the excess concessional contribution with the non-concessional cap
- relief for clients who breach their concessional cap by more than \$10,000
- the taxation treatment of the refunded contribution from the fund's perspective.

In addition, no relief has been provided for clients who breach their concessional cap in the 2010/11 or previous financial years. Inadvertent breaches of the non-concessional cap have also not been addressed by this proposal.

### Operation of higher concessional cap for those over 50 from 1 July 2012

The Government has amended its previous announcement regarding a permanently higher concessional cap for those aged 50 or over with a total super balance of less than \$500,000.

The Government has now proposed that the higher concessional cap for eligible clients will be \$25,000 higher than the standard concessional cap. This replaces the Government's existing proposal (in a discussion paper released on 28 February 2011) that a non-indexed cap of \$50,000 would apply.

### *FirstTech Comment*

There is still significant uncertainty around the operation of the proposed higher concessional cap for eligible clients aged 50 or over. In particular, the Government is still consulting with the industry about the operation of the \$500,000 total balance limit.

While the new proposal will ensure that the concessional cap for those aged 50 or over will increase as the standard concessional cap is indexed, its value as a proportion of the standard cap will be devalued over time.

### **Reduction in the minimum payment amounts for account-based pensions in 2011/12**

The Government has announced that minimum payment amounts for account-based, allocated and market linked (term allocated) pensions will be set at 75 per cent of legislated minimums for 2011-12 and will then return to normal in 2012/13.

The minimum annual income payment for an account-based pension will be calculated as a percentage of the account balance as follows:

	<b>Minimum annual payment</b>		
<b>Age</b>	<b>2010/11</b>	<b>Proposed - 2011/12</b>	<b>Proposed - 2012/13</b>
Under 65	2%	3%	4%
65-74	2.5%	3.75%	5%
75-79	3%	4.5%	6%
80-84	3.5%	5.25%	7%
85-89	4.5%	6.75%	9%
90-94	5.5%	8.25%	11%
95 and more	7%	10.5%	14%

### *FirstTech comment*

Clients who have commenced a transition to retirement pension and who draw the minimum and then salary sacrifice enough of their salary and wages to leave them with the same after tax income may need to adjust their salary sacrifice levels over the next 2 years to compensate for the increased minimum pension drawdown requirements.

## **Government co-contribution income threshold indexation frozen until 2012/13**

The Government has announced that it will extend the freeze on indexation of the co-contribution income thresholds to 2012/13. Therefore, the lower and upper co-contribution income thresholds will remain at \$31,920 and \$61,920 respectively until 30 June 2013.

## **Super contribution information disclosure from 1 July 2012**

The Government has reconfirmed its election commitment to ensure employees receive information through their pay slips on the amount of super contributions paid into their super account. In addition, the Government plans to require super funds to notify employees and employers on a quarterly basis if regular contributions cease.

### ***FirstTech Comment***

The Government's election commitment on this measure made reference to reporting of both super guarantee and salary sacrifice contributions. Including salary sacrifice contributions in this disclosure should provide greater transparency for some employees around when these contributions are actually made into their super fund.

## **Self Managed Super Fund levy increase from 1 July 2010**

The Government has announced it will increase the annual SMSF levy by \$30 (to \$180 per year) to pay for a range of measures relating to the SMSF sector that were announced as part of the stronger super reforms. Please refer to the December 2010 FirstTech briefing 'Cooper Review – Government Response' for further details on these reforms.

## **Self Managed Super Fund change in definition – no effective date**

The Government has announced it will amend the definition of an SMSF in the superannuation legislation so that where the trustee of a self managed superannuation fund is a body corporate, a parent or guardian may be director of the body corporate in place of a member that is a minor.

### ***FirstTech comment***

Under the current definition of an SMSF, a parent or guardian can only act as an individual trustee on behalf of a minor. This change will therefore allow SMSFs with members who are minors to use a corporate trustee.

## **Taxation**

### **Minors ineligible for LITO on unearned income from 1 July 2011**

The Government intends to remove access to the low income tax offset (LITO) for minors (i.e. children under 18 years of age) in respect of unearned income, including dividends, rent, royalties and other property income.

The purpose of this measure is to discourage income splitting between adults and children, including through family trusts.

Minors who are exempt from the unearned income rules (e.g. disabled minors) will retain access to LITO. In addition, minors receiving income that is exempt from the unearned income rules (e.g. income from work, compensation payments and inheritances) will be eligible for LITO on this income.

#### ***FirstTech Comment***

This proposal reduces the effective tax-free threshold of a minor from \$3,333 to \$416, with all income above this amount taxed at child penalty tax rates. From 1 July 2011, many family trusts will need to rethink making distributions of assessable income to minors, as such a strategy will be far less tax-effective.

### **Increasing proportion of LITO allowed for in PAYG withholding from 1 July 2011**

Current PAYG withholding schedules allow for 50% of the low income tax offset (LITO) to be factored into an employee / pensioner's regular income tax withholding. The Government plans to increase this proportion to 70%.

While the maximum LITO and income qualification thresholds will remain unchanged, this proposal will allow a modest increase in a LITO recipient's take-home pay throughout the financial year.

#### ***FirstTech Comment***

Clients receiving maximum LITO of \$1,500 will see an additional \$300 pa (\$11.54 per fortnight) brought forward throughout a financial year instead of needing to wait for the completion of their tax return. However, care should be taken for clients who have non-PAYG income, as a smaller proportion of LITO will be available to reduce income tax at the end of each financial year.

### **Valuing cars for FBT purposes - change to flat 20% statutory percentage for new contracts entered into from 10 May 2011**

The Government will change the statutory method of calculating the taxable value of cars for fringe benefits tax (FBT) purposes. The statutory percentage

used to calculate the taxable value of a car for new contracts entered into from Budget time will be phased in as follows:

<b>km travelled during FBT year</b>	<b>Current</b>	<b>10/05/11</b>	<b>1/04/12</b>	<b>1/04/13</b>	<b>1/04/14</b>
Less than 15,000	26%	20%	20%	20%	20%
15,000 to 24,999	20%	20%	20%	20%	20%
25,000 to 40,000	11%	14%	17%	20%	20%
Over 40,000	7%	10%	13%	17%	20%

### ***FirstTech Comment***

This is good news for those travelling less than 15,000 km per FBT year and using the statutory method, as they will see the packaged value of their car decrease. In contrast, clients travelling 25,000 km per FBT year or more will see an increase in their car's packaged value.

Importantly, there is still the option of instead using the operating cost or ('log book') method, which calculates the taxable value based on the total operating costs during each FBT year.

### **Instant tax write-off for small business motor vehicles from 1 July 2012**

For small business clients who purchase motor vehicles, the Government will provide an instant tax write-off equal to the first \$5,000 of the purchase price. The remaining purchase price can be depreciated in the general depreciation pool at a rate of 15% in the first year and 30% in future years (the current method for the whole vehicle value).

This measure will apply to all types of small businesses structures, including sole traders, companies, partnerships and trusts, and all types of motor vehicles used in the business.

### **Removal of Entrepreneurs Tax Offset (ETO) from 1 July 2012**

The ETO, which provides a tax offset for eligible small businesses with aggregated turnover under \$75,000, will be abolished.

## **Deductions against government assistance payments disallowed from 1 July 2011**

In response to the 2010 High Court decision in *Commissioner of Taxation v Anstis* the Government will amend the tax law to prevent deductions being claimed against all government assistance payments.

Students who receive Youth Allowance and who have maintained records of their expenditure will be able to claim a deduction for expenses incurred in gaining their payment for the 2010-11 income year.

## **Extension of main residence exemption – no start date provided**

The ATO will have discretion to extend the two year ownership period in which the trustee or beneficiary of a deceased estate must dispose of their interest in the deceased's dwelling in order to access a CGT main residence exemption.

## **Phase out of dependent spouse tax offset for spouses under 40 from 1 July 2011**

This offset will be phased out for dependent spouses who are aged under age 40 (i.e. born on or after 1 July 1971). This amendment will not affect those people whose dependent spouses are carers, taxpayers with children eligible for Family Tax Benefit B, people who are permanently unable to work and taxpayers eligible for the zone, overseas forces or overseas civilian tax offsets.

## **Reduction in Higher Education Contribution Scheme (HECS) discounts from 1 January 2012**

Discounts applying to payments made under the Higher Education Contributions Scheme will reduce as follows:

- the discount for up-front payments will reduce from 20 per cent to 10 per cent, and
- the bonus on voluntary payments to the ATO of \$500 or more will reduce from 10 per cent to 5 per cent.

## **Increased Medicare levy low income threshold from 1 July 2010**

The Government will increase the Medicare levy low income threshold to \$18,839 for individuals and \$31,789 for families. The additional amount of threshold for each dependent child or student will also increase to \$2,919.

The Medicare levy threshold for pensioners below age pension age will also increase to \$30,439.

## **Special disability trusts - extension to CGT relief**

The Government will extend the CGT relief for special disability trusts announced in the 2010 Budget by:

- providing a CGT exemption for assets transferred into a special disability trust for no consideration
- backdating the application of the CGT main residence exemption to 2006/07
- providing a CGT exemption for the recipient of the principal beneficiary's main residence, if disposed of within two years of the principal beneficiary's death
- ensuring equivalent tax treatment of special disability trusts under different Acts.

### **Improved taxation of trust income from 1 July 2010**

The Government has announced it will introduce legislation to:

- enable the streaming of capital gains and franked distributions, and
- target the use of low tax and exempt entities to reduce the tax payable on the taxable income of a trust.

This is an interim measure in line with recommendations of the Board of Taxation while the trust tax provisions of the Tax Act are rewritten.

### **CGT and trading stock exception for super funds from 10 May 2011**

The Government proposed to remove the trading stock exception to the CGT primary code rule for complying super funds for shares, units in a trust and land with immediate effect. This will ensure these assets are subject to CGT, as the primary code for taxing gains and losses of super funds.

#### ***FirstTech Comment***

This means that where an SMSF operates a share trading business it will no longer be able to deduct its losses against other non-CGT income.

### **Look-through treatment for instalment warrants and similar arrangements from 2007/08**

The Government has reconfirmed that it will extend the look-through treatment of instalment warrants for income tax purposes, with effect for income tax assessments for the 2007-08 income year and later income years.

This announcement confirms:

- that look-through treatment will apply to instalment warrant and receipt arrangements over direct and indirect interests in listed securities as well as unlisted securities in widely held entities, and
- the investor in an instalment warrant or instalment receipt will be treated as the owner of the security for income tax purposes.

## **Not-for-profit tax concessions from 1 July 2011**

The Government has announced it will reform the tax concessions provided to not-for-profit (NFP) entities to ensure they only apply to those activities that directly further a NFP's altruistic purposes.

This means that, in relation to unrelated commercial activities, NFP entities will:

- pay income tax on profits from these activities
- not have access to the fringe benefits tax exemptions or rebate, goods and services tax concessions, or deductible gift recipient support.

The new arrangements will initially affect only new unrelated commercial activities that commence after 10 May 2011. The tax concessions applying to existing unrelated commercial activities will be subject to a transitional period and will be phased out over time.

## **Introducing a new statutory definition of charity from 1 July 2013**

The Government has announced it will introduce a new statutory definition of 'charity' for all Commonwealth laws. The Government says a new definition will deliver smarter regulation, reduced red tape and improved transparency and accountability for the sector.

## **Social security**

### **Disability support pension work and participation requirements from 1 July 2012**

The Government plans to introduce two measures relating to eligibility for disability support pension (DSP).

The first of these will allow all DSP recipients to work up to 30 hours per week for up to two years and remain eligible for a part pension. This will allow those granted DSP since May 2005 (who can only work up to 15 hours per week before their payment is affected) to test whether they can work more hours but are worried about losing their eligibility for DSP.

Under the second measure, the Government intends to introduce participation requirements for all (new and existing) DSP recipients under the age of 35 with some work capacity. Those who are assessed as having a partial work capacity of eight or more hours per week and are not working will be required to attend Centrelink interviews and to engage in relevant participation activities. These activities, specific to those with a disability, may include working with

employment services to improve job readiness, searching for employment, undertaking training, volunteering or rehabilitation.

### **Youth Allowance and Newstart Allowance – changes to eligibility criteria from 1 July 2012**

#### Youth Allowance (other)

- Eligibility and the parental means test for recipients will be extended to 21 years of age (currently 20).
- Income free area will increase from \$62 to \$143 per fortnight.
- Working Credit bank limit will increase from \$1,000 to \$3,500.

#### Newstart Allowance

- Will be closed to new applicants under 22 years of age (currently 21).

#### Increased obligations for very long term unemployed job seekers

- Those who are in their second year in the Work Experience Phase will be required to undertake work experience for 11 months of the year.

#### ***FirstTech Comment***

Currently, a job seeker is required to undertake an approved activity for 6 months in each year that they are in the Work Experience Phase.

With the increased capacity to earn income before YA (other) is reduced, and the additional participation requirements, there is a much greater incentive to re-enter the work force.

### **Paid Paternity Leave deferred implementation start date to 1 January 2013**

The Government will defer the implementation of Paid Paternity Leave by six months from 1 July 2012 until 1 January 2013. This scheme will provide two weeks paternity leave paid at a rate equivalent to the national minimum wage to eligible working fathers, and other partners who are providing full-time care or sharing the child's care, for children born on or after 1 January 2013.

### **Increase in family tax benefit part A for certain children aged 16-19 and cap eligibility to child under 22 from 1 January 2012**

The Government will increase the maximum rate of family tax benefit part A paid in respect of a child aged 16 to 19 who attends full-time school or vocational study to the same rate paid for 13 to 15 year olds. This will increase the FTB part A by up to \$4,208 a year for 16 and 17 year olds, and up to \$3,741 a year for 18 and 19 year olds.

The eligibility for FTB part A will be limited to children up to age of 21 years irrespective of whether they are a dependent full time student or not.

### **Advance payment of family tax benefit part A from 1 July 2011**

The Government will allow families to take:

- One-off advance payment of up to 7.5% subject to a maximum of \$1,000 of annual FTB part A entitlement at any point throughout the year; and/or
- A continuous advance payment of at least \$160 every six months.

These advance payments will be subject to an assessment of a family's ability to repay the advance without falling into financial hardship. The advances will be repaid over six months by reducing future fortnightly FTB payments.

### **Update on selected Henry Review /2010 Federal Budget measures**

<b>Proposal</b>	<b>Status</b>
Superannuation guarantee (SG) rate increase from 9% to 12% pa by 2019	No draft legislation.
Maximum age increase for SG from 70 to 74	No draft legislation.
15% low income earner's government super contribution	No draft legislation.
Retention of a higher concessional contributions cap for those over 50 with a total super balance less than \$500,000 from 1 July 2012	No draft legislation.  A discussion paper was released on 28 February 2011 outlining a number of options for implementing this measure. Submissions closed on 25 March 2011.  The 2011 Budget proposes that the higher concessional cap will be set at \$25,000 more than the standard concessional cap.
Reduction of the corporate tax rate	No draft legislation.  The Government announced a change to the original proposal on 9 November 2010 whereby the corporate tax rate would reduce to 29% on 1 July 2013 but will

	<p>no longer be reduced again to 28%.</p> <p>Eligible small business companies will still receive an early corporate tax rate cut to 29% on 1 July 2012.</p>
Small business asset write-off of \$5,000 with other assets depreciable in one pool at a 30% rate	No draft legislation.
Standard tax deduction for work related expenses and the cost of managing tax affairs	<p>On 2 March 2011, the Government released a consultation paper asking for comments. Submissions closed on 8 April 2011.</p> <p>The standard tax deduction is proposed to commence on 1 July 2012 and provide a deduction of \$500 in 2012/13 and \$1,000 in future financial years.</p>
50% tax discount for the first \$1,000 of interest income	<p>On 9 November 2010, the Government proposed delaying the commencement of the 50% tax discount for interest income to 1 July 2012.</p> <p>It is now proposed that the 50% discount will apply to the first \$500 of interest income in 2012/13 and the first \$1,000 of interest income in future financial years.</p>
Increasing the benchmark interest rate for the deductibility of capital protected borrowings entered into or modified from 13 May 2008	<p>This proposal was included in Tax Laws Amendment (2010 Measures No. 5) Bill 2010, which awaits passage by the senate.</p> <p>This measure increases the limit on deductibility of capital protected loans to the RBA's standard variable housing rate plus 100 basis points.</p>

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