

# Tax Highlights of the 2008/9 Australian Federal Budget

The first Budget of the new Labor Government was delivered on 13 May 2008 and has focused on reducing inflationary pressures by reining in expenditure, whilst also investing for the future. While there have not been many significant changes due to the announcement of a comprehensive tax review, the recent budget includes both positive and detrimental tax changes for taxpayers.

Positive changes include:

- Decrease in income tax payable by individuals; and
- Decrease in the level of withholding tax from 30 per cent to 7.5 per cent on distributions to foreign resident investors.

Detrimental changes include:

- Certain benefits will no longer be free of FBT and no doubt will impact on salary packaging agreements.

## Personal Taxes

The lowering of tax rates and the extension of the tax-free threshold will result in tax savings to Australian residents as well as non-residents.

### Australian Residents

The key changes are an increase in the income thresholds at which the 30% and 40% tax rates start to apply and a progressive reduction of the 40% marginal tax rate to 37% from 1 July 2010.

### Non-Residents

Similarly to the taxation of residents, the key highlights are an increase in the income thresholds at which the 30% and 40% tax rates apply to non-residents. Like Australian residents, non-residents will also experience progressive reductions of the 40% marginal tax rate to 37% from 1 July 2010. Unfortunately the changes may not result in any significant savings for non-residents.

### Example

A non-resident currently earning AUD 100,000 will be taxed at 29% for the first AUD 30,000, 30% for the next AUD

45,000 and 40% for the remaining AUD 25,000. As such, the taxpayer will incur a tax liability of AUD 32,200.

In contrast, from 1 July 2008 a taxpayer will be taxed at 29% for the first AUD 34,000, 30% for the next AUD 46,000 and 40% for the remaining AUD 20,000. Under the new rates and thresholds, a taxpayer earning AUD 100,000 will incur a tax liability of AUD 31,660. The taxpayer will only experience a tax saving of AUD 540.

### Withholding Tax

The withholding tax payable on distributions by Real Estate Investment Trusts to non-residents of Australian sourced income (other than dividends, interest and royalties) will be reduced from 30% to 7.5% over and three years.

The nature of the new withholding tax regime will vary depending on whether the foreign investor is resident in a jurisdiction with which Australia has effective exchange of information (EOI) arrangements on tax matters. While the EOI jurisdictions have not yet been published, it is anticipated this list will include all of Australia's Double Tax Treaty countries (including Thailand).

A resident in a jurisdiction with which Australia has EOI arrangements with will be subject to:

- a 22.5% non-final withholding tax for fund payments of the 2008-09 income year;
- a 15% final withholding tax for fund payments of the 2009-10 income year; and
- a 7.5% final withholding tax for fund payments of the third and later income years.

Residents of other jurisdictions will be subject to a 30% final withholding tax, with effect for fund payments of the first income year in which the enabling legislation receives royal assent.

The change from non-final to final tax will mean it will no longer be possible to lodge tax returns and claim any deductions to reduce the tax impact.

Distributions of dividends, interest and royalties remain subject to the same rates of withholding, subject to limits under Double Tax Treaty arrangements. Distributions of non-Australian sourced income remain free of Australian tax.

### Fringe Benefits Tax

Measures contained in the Budget will immediately reduce an employee's ability to obtain certain benefits free of FBT under salary packaging arrangements.

The Budget will impose FBT on certain items such as laptop computers, briefcases and PDAs unless they are principally for work related use. This additional requirement that the item be used principally for work purposes currently only applies to computer software, protective clothing and mobile phones and car phones.

Further, changes will be made such that the FBT exemption will be limited to one item of each type per employee per year unless it is a replacement item. Under current legislation, this limitation only applies to notebook computers or laptop computers. These FBT changes will apply to items purchased after 13 May 2008.

The Budget will also impose FBT on the full value of a benefit that has been provided to both an employee and an associate in relation to jointly held assets. Whilst legislation to give effect to this change is yet to be drafted, we expect that the change will result in FBT being payable only on the associate's share of the expense incurred in respect of a jointly held investment asset.

The measure will re-establish the principle that income and deductions arising from jointly held assets should be allocated between joint owners according to their legal interests.

The FBT exemption for property consumed on an employer's premises will remain in place but will be amended to exclude property (i.e. food and drink) which is acquired by way of a 'meal card' which utilises a salary sacrifice arrangement. ■

*This summary of the Federal Budget highlights was contributed by KPMG. KPMG can be contacted at: rporter1@kpmg.co.th*

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