TAX Flash
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The Henry Tax Review

Tax reform and you – what's in, what's out, and what's still to come

The Government's response to the Henry Review released at the beginning of this month was an anti-climax. The Government have released only the first phase of reforms and left the majority of the Henry Review recommendations untouched. This does not mean that we will not see any further reform; it's just that there is no definitive timeframe for further announcements.

Some of the more aggressive reforms recommended by the Henry Review, and those likely to have an immediate budgetary impact, are yet to be acted upon.

So, what was announced?

Reform	Estimated start date
Phased reduction in the company tax rate to 28% by 2014/2015	1 July 2013
Reduction in the company tax rate to 28% for small business entities (turnover under $2m) by 2012/2013	1 July 2012
Instant asset write off and simplified depreciation – expands the capital allowance concessions available for small business entities (turnover under $2m)	1 July 2012
Incremental increases to super guarantee each financial year to reach 12% by 2019/2020	1 July 2013
Superannuation guarantee age limit increased to 75	1 July 2013
A higher 'catch up' contribution cap of $50,000 for those 50 and over with super balances less than $500k	1 July 2012
A superannuation contribution from the government of up to $500 pa for those on adjusted taxable incomes up to $37k	Contributions from 1 July 2012 (paid from 2013/2014)
40% profits tax on non-renewable resources (Resource Super Profits Tax or RSPT)	1 July 2012
Refundable tax offset set at the company tax rate for exploration expenditure in Australia	Exploration expenditure from 1 July 2011
$700 m fund to be divided up among the states. Derived from the RSPT	2012/2013

No one should act on the reforms as announced as the Government will need to overcome a major political hurdle before any of the reforms become reality. All of the positive reforms in this first phase - such as the company tax changes, small business depreciation changes, and the extension of the concessional contribution caps – are funded by the Resource Super Profits Tax (RSPT). The RSPT capitalises on the resources boom and will see the Government increase its share from this sector by around $9 billion. If the Government cannot pass this new resources tax through Parliament, the other reforms may not come to fruition.

The key changes explored

Reduction in the company tax rate

The reforms introduce a reduction in the company tax rate to 28% (the Henry Review had recommended 25%).

For eligible small business entities (those with a turnover below $2m), company tax will reduce to 28% from 1 July 2012. For all other entities, the company tax rate reduction is phased across two years, reducing to 29% from 1 July 2013 and 28% from 1 July 2014.

Instant asset write off for small business

An expansion of capital allowance concessions will enable small business entities (turnover under $2m) to:

- immediately write off assets valued under $5,000 from its current level of $1,000 (the Henry Review had recommended $10,000); and
- write-off all other assets (except buildings) in a single depreciation pool at a rate of 30%. Currently, there are two different deprecation pools (in effect, the long life pool will be removed).

If introduced, come 1 July 2012, a small business cafe that purchases a display fridge for $4,000 will be able to claim a $4,000 deduction in the first year.

Under current rules, the cafe would be entitled to a $600 deduction in the first year.

Introduction of a Resources 'Super' Profits Tax

The Government intends to introduce a 40% profits tax on the non-renewable resources sector on 1 July 2012. The RSPT will be payable at 40% on the realised value of resource deposits, measured as the difference between the revenues generated from resource extraction and associated costs.

The RSPT is the funding vehicle for the other announced reforms.

The Government also introduced an exploration rebate to try and stimulate further development in this sector. In addition, $700 million per annum of the tax generated is set aside for the States with a weighting towards the resource rich States.

Superannuation guarantee rate to increase to 12%

Under this reform, the superannuation guarantee charge rate will gradually increase from 1 July 2013 until it reaches 12% in 2019/2020. The rate will increase by 0.25% for the 2013/2014 and 2014/2015 financial years, and 0.5% for each additional financial year until the superannuation guarantee reaches 12% in 2019/2020.

The interesting issue for many employers will be the impact of the increased superannuation guarantee on salary packages.

'Catch up' concessional contributions caps

Over the last few years, transitional contribution caps have been in place to boost the level of retirement savings in Australia. The transitional caps have allowed people to put more pre-tax money into their super fund and benefit from the concessional tax rate. These transitional contributions caps expire on 30 June 2012.

Under this reform, permanent 'catch up' concessional contribution caps will be available to those aged 50 or over. However, this concession will only apply to those with a super balance of less than $500,000.

What's yet to come?

The Henry Review lists 137 recommendations to the tax system. Some of the recommendations not ruled out as yet include:

- Tightening of personal service income rules so any owner/manager earning a significant portion of their income from their own personal efforts would be denied a series of business deductions (10)
- Tightening up deductions so they have to be directly related to income production (11)
- Removing and tightening a series of CGT small business concessions (17)
- Removal of the tax on superannuation in the fund and instead tax employer contributions at marginal tax rates (18)
- Halving tax on superannuation fund earnings to 7.5% (19)
- Super guarantee to be paid at the same time as wages (23)
- Immediate write offs for assets valued at less than $1000 for non-small business entities (28)
- Increase to the small business entity turnover test to $5m (it's currently $2m) (30)
- Give companies the ability to carry back a revenue loss to offset it against the prior year's taxable income (31)
- A flow through entity regime for closely held companies and fixed trusts – this would mean that from a tax perspective, there would be no difference between a company, trust or partnership structure (38)
- Remove the broad exemptions for foreign employment income (8b)
- Limiting access to the child care rebate for parents who do not work (99c)
- Removal of the FBT exemption for employer sponsored child care facilities (101)
- Removal of the medical expenses tax offset (7a)
- Simplification of car fringe benefits to a rate of 20 cents per km (9b)
- Fringe benefits readily attributed to the employee to be taxed through the PAYG system not FBT (9)

What was ruled out?

A number of potential tax changes were ruled out by the Treasurer. These include applying land tax to the family home (although this is a decision for the States), toughening up the welfare system so that parents would need to work once their child reached four years of age and strengthening means testing, removing the FBT benefits for the not-for profit sector and increasing the deductibility thresholds for donations to $25 (from $2), reducing the CGT discount or changing grandfathering arrangements, introducing a wealth tax , removing dividend imputation, or changing how alcohol is taxed (in the middle of a wine glut).

The Government has also ruled out removing the Medicare levy and abolishing luxury car tax.