



# MEADS

## *focus*

## **2009 Federal Budget**

12 May 2009

### **Table of contents**

[Budget Overview](#)

[Highlights](#)

#### **Superannuation concessions**

[Concessional contributions caps reduced](#)

[Superannuation co-contribution decreased](#)

#### **Individuals and families**

[Private Health Insurance Rebate](#)

[Increase in Medicare levy low-income thresholds](#)

[First Home Owner's Boost extended](#)

[Employee Share Schemes](#)

[Non-commercial losses rules](#)

[Foreign employment income exemption changes](#)

[Family assistance](#)

#### **Small Business**

[Small Business Tax Break extended](#)

[Entrepreneurs' tax offset income test deferred](#)

[Income recovery subsidy payments for Australian disasters](#)

[Victorian bushfire exemptions](#)

#### **Companies and trusts**

[New R&D tax credit](#)

[Deemed dividends](#)

[Medibank Private — conversion to a “for profit” enterprise](#)

[Life insurance immediate annuity business](#)

[Review of foreign source income attribution regimes](#)

[Uniform Capital Allowance technical — minor changes](#)

[Off-market share buy-backs](#)

[Thin capitalisation changes for approved ADIs](#)

[Managed investment trusts](#)

[CGT: limited roll-over for fixed trusts](#)

[TFN requirements for closely held trusts](#)

### **Philanthropy**

[Response to Word Investments case](#)

[Deductible gift recipient review](#)

### **Tax administration**

[Tax Office strategic compliance package](#)

[Streamlining the tax law design process](#)

[Repeal of unlimited amendment periods](#)

### **Other superannuation and retirement measures**

[Pension age to be increased to 67](#)

[Lost superannuation accounts amendments](#)

[Pension drawdown relief extended](#)

[Retirement incomes report released](#)

[Australia-New Zealand superannuation portability scheme](#)

### **Indirect and other taxes**

[GST measures](#)

[Indirect Tax Concession Scheme](#)

[Petroleum resource rent tax](#)

### **Carbon Pollution Reduction Scheme**

[Carbon Pollution Reduction Scheme](#)

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[CCH Budget Night Report 200](#)



# 2009 FEDERAL BUDGET

## Budget Overview

A “temporary collapse in revenue” has prompted a “program of responsible borrowing” and “longer term nation building projects” by the Rudd Labor Government, as announced in tonight's Federal Budget. The government hopes that this will provide the stimulus needed for the economy, with the aim of bringing the budget back to surplus in the medium term.

As a result, no significant tax changes were announced, although measures have been proposed to reduce tax concessions for high income earners in the form of superannuation reform and changes to the private health insurance offset. Contrary to speculation, the incentive for first home owners has been extended and so has the small business tax break. Reform of the tax system is high on the agenda but tax cuts announced in last year's Budget will be honoured.

Here are the highlights of the tax and superannuation changes announced in the Budget.

[top](#)

## Highlights

This special CCH Budget Night Report outlines the tax and superannuation changes announced in the Budget. Here are the highlights.

### Superannuation concessions

The annual cap for concessional superannuation contributions has been halved from \$50,000 to \$25,000, and the transitional concessional contributions cap has been reduced to \$50,000 per year from its former annual limit of \$100,000.

The superannuation co-contribution scheme will be reduced to a rate of 100% for contributed amounts for the 2009/10, 2010/11 and 2011/12 years, increasing to 125% for the 2012/13 and 2013/14 years and returning to 150% for the 2014/15 year.

### Individuals and families

From 1 July 2010, the government will introduce three new “Private Health Insurance Tiers” in respect of the Private Health Insurance Rebate

From the 2008/09 year, the Medicare levy low-income thresholds will be increased to \$17,794 for individuals and \$30,025 for individuals in families.

The First Home Owner's Boost will be extended for an extra six months.

The employee share scheme deferral election will not apply to shares and options acquired after 7.30pm on 12 May 2009.

From the 2009/10 income year, taxpayers with an adjusted taxable income of over \$250,000 will have excess deductions quarantined to the business activity under the non-commercial losses rules.

From 1 July 2009, the foreign employment income exemption will only be available for income earned by aid or charitable workers, government aid workers, and specified government employees.

From 1 July 2009, Family Tax Benefit Part A (FTB-A) payment rates will be indexed by the Consumer Price Index. The higher income thresholds for family payments (FTB-A, FTB-B and Baby Bonus) will be maintained at their current level until July 2012.

A Paid Parental Leave scheme will be available to parents for births and adoptions that occur on or after 1 January 2011.

### **Small Business**

A bonus deduction of 50 per cent will be available to small businesses that acquire an eligible asset between 13 December 2008 and 31 December 2009 and install it ready for use by 31 December 2010

The application of the income test for the entrepreneurs' tax offset will be deferred for 12 months and commence on 1 July 2009.

The government has made the income recovery subsidy payments for the Victorian bushfires and for the North Queensland floods exempt from income tax.

Certain grants to small businesses and primary producers affected by the Victorian bushfire will be income tax exempt.

### **Companies and trusts**

From 2010/11, the current R&D concession will be replaced by the new R&D tax credit.

From 1 July 2009, the non-commercial loan rules will be extended to payments by way of a licence or right to use real property and chattels .

The government will convert Medibank Private to a "for profit" government-owned business enterprise in early 2009/10.

There has been confirmation that the immediate annuity conditions for life insurance companies did not change when they were transferred to ITAA 1997.

Australia's foreign source income attribution regimes will be reformed.

A number of technical amendments will be made to the Uniform Capital Allowance rules.

The government will implement the recommendations of the Board of Taxation to improve the taxation treatment of off-market share buy-backs.

The government will change the thin capitalisation regime for approved authorised deposit taking institutions.

Australian managed investment trusts will be able to make an irrevocable election to apply the capital gains tax regime as the primary code for taxing certain disposals of assets, with effect from the 2008/09 income year.

A limited CGT roll-over will be provided for assets transferred between trusts that have the same beneficiaries with the same entitlements and no material discretionary elements (ie fixed trusts).

From 1 July 2010, TFN withholding arrangements will apply to closely held trusts.

### **Philanthropy**

The government has released its interim response to the High Court decision in *FC of T v Word Investments Ltd* 2008 ATC 20-072.

The government will provide a mechanism to conduct a triennial review of the guidelines for, and organisations on, the four deductible gift recipient registers, with effect from the 2009/10 income year.

### **Tax administration**

The government will provide \$595.2m over four years to help businesses remain viable in the face of the global recession, to tackle emerging revenue risks and promote community confidence in the tax system.

Treasury will be provided with additional funding to fund private sector expert input on the practical and commercial issues arising from proposed tax changes.

A discussion paper has been released to progress the Tax Design Review Panel's recommendation that consideration be given to whether or not the Commissioner should be given further power to modify the tax law to give relief to taxpayers.

Over 100 provisions in the tax laws that provide unlimited amendment periods will be repealed.

### **Other superannuation and retirement measures**

The age pension age will be gradually increased to 67 years of age.

Superannuation funds will be required to align their lost superannuation reporting with unclaimed money regulations and to transfer lost superannuation accounts with balances less than \$200 to unclaimed monies.

The minimum drawdown amount for account-based pensions will be halved for the 2009/10 income year.

The future tax panel's review into retirement incomes has released its report, recommending keeping the superannuation guarantee charge at 9%, increasing the age pension age to 67 years and aligning the age pension with the preservation age.

Australia and New Zealand have agreed in principle to allow movement of superannuation benefits between Australian and New Zealand superannuation funds.

### **Indirect and other taxes**

The administration of GST is to be streamlined, and compliance costs reduced, from 1 July 2010.

The GST law will be amended to clarify the GST treatment of the Carbon Pollution Reduction Scheme.

Countries eligible for the Indirect Tax Concession Scheme have been expanded.

The offshore exploration incentive in the petroleum resource rent tax will be extended by one year.

### **Carbon Pollution Reduction Scheme**

With effect from the introduction of the Carbon Pollution Reduction Scheme all Kyoto units registered in Australia will be subject to the scheme's proposed tax treatment.

The government will delay the start date of the Carbon Pollution Reduction Scheme by one year to 1 July 2011.

[top](#)

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## **Superannuation concessions**

### **Concessional contributions caps reduced**

The government has made its first rollback of the simpler superannuation reforms, reducing the concessional contributions caps from the start of the 2009/10 income year. The concessional

contributions cap has been halved to \$25,000 a year from its current limit of \$50,000. The government will introduce special concessions for persons who are defined benefit fund members on 12 May 2009.

A reduction will also apply to the transitional threshold for concessional contributions. The transitional concessional cap will be reduced from its current annual level of \$100,000 to \$50,000 per year. The transitional concessional cap of \$50,000 will apply for the 2009/10, 2010/11 and 2011/12 years of income.

The government has ruled out any reduction to the non-concessional caps at this time, stating that they remain at \$150,000 (indexed) which will now be six times the amount of the concessional cap for the 2009/10 income year and beyond.

*Source: Budget Paper No 2, p 35; Minister for Superannuation and Corporate Law Press Release No 1, 12 May 2009.*

[top](#)

## **Superannuation co-contribution decreased**

The superannuation co-contribution scheme will be reduced to 100% of eligible contributions for 2009/10, 2010/11 and 2011/12 income years, with the rate increasing to 125% of contributions for the 2012/13 and 2013/14 years and returning to its former level of 150% for the 2014/15 year.

The adjusted superannuation co-contribution rates from 1 July 2009 will be:

100% for 2009/10, 2010/11 and 2011/12, with a maximum co-contribution of \$1000, reduced by 3.333 cents for each dollar by which the person's total income exceeds the shade out threshold for receiving the full co-contribution;

125% for 2012/13 and 2013/14, with a maximum co-contribution of \$1,250, reduced by 4.167 cents for each dollar of total income above the shade out threshold; and

150% from 2014/15 onwards, with a maximum co-contribution of \$1,500, reduced by 5 cents for each dollar of total income above the shade out threshold.

*Source: Budget Paper No 2, p 391; Minister for Superannuation and Corporate Law Press Release No 1, 12 May 2009.*

[top](#)

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## **Individuals and families**

### **Private Health Insurance Rebate**

From 1 July 2010, the government will introduce three new "Private Health Insurance Tiers" in respect of the Private Health Insurance Rebate as follows.

Tier 1: for singles earning more than \$75,001 (couples \$150,001), the Private Health Insurance Rebate will be 20% for those up to 65 years (25% for those over 65, and 30% for those over 70 years). The Surcharge for avoiding private health insurance will remain at 1%.

Tier 2: for singles earning more than \$90,001 (couples \$180,001), the Private Health Insurance Rebate will be 10%, for those up to 65 years (15% for those over 65, and 20%

for those over 70 years). The Surcharge for avoiding private health insurance will be increased to 1.25%.

Tier 3: for singles earning more than \$120,001 (couples \$240,001), no Private Health Insurance Rebate will be provided. The Surcharge for avoiding private health insurance will be increased to 1.5%.

All income thresholds will continue to remain indexed.

For low and middle-income earners, the existing 30%, 35%, 40% Private Health Insurance rebates will remain in place.

*Source: Press Release No 21, 12 May 2009, Minister for Health and Ageing.*

[top](#)

### **Increase in Medicare levy low-income thresholds**

From the 2008/09 year, the Medicare levy low-income thresholds will be increased to \$17,794 for individuals and \$30,025 for individuals in families. The additional amount of threshold for each dependent child or student will also increase to \$2,757.

Further, the government will increase the Medicare levy low-income threshold for pensioners below Age Pension age to \$25,299, with effect from 1 July 2008.

*Source: Budget Paper No 2, p 27; Assistant Treasurer's Media Release, 12 May 2009.*

[top](#)

### **First Home Owner's Boost extended**

The First Home Owner's Boost (FHOB) will be extended for an extra six months and will be reduced by half for the last three months of the extension period.

For eligible first home buyers entering into contracts between 1 July 2009 and 30 September 2009 (inclusive) the FHOB will continue to provide \$7,000 for the purchase of established homes and \$14,000 for the purchase of new homes. This means that including the \$7,000 First Home Owner's Grant, until 30 September, purchasers of new homes will continue to be eligible for \$21,000 of assistance, and purchasers of existing homes will continue to be eligible for \$14,000 of assistance.

Between 1 October 2009 and 31 December 2009 the FHOB grants will be \$3,500 for the purchase of established homes and \$7,000 for the purchase of new homes. This means that including the \$7,000 First Home Owner's Grant, from 1 October until 31 December, purchasers of new homes will be eligible for \$14,000 of assistance, and purchasers of existing homes will be eligible for \$10,500 of assistance.

The FHOB grants are in addition to the existing \$7,000 grant under the First Home Owners Scheme.

*Source: Treasurer's Press Release No 22, 12 May 2009, Minister for Housing.*

[top](#)

### **Employee Share Schemes**

Currently, under qualifying share schemes, an employee can elect to be assessed on discounts provided on shares or rights in the income year in which the shares or rights are acquired. If no election is made, the discount (which includes gains on shares or rights) is taxed at a later time

(eg when the employee disposes of the share). If an employee elects to be taxed up front, they receive a tax exemption of up to \$1,000 on the discount. However, if the shares or options are issued under a non-qualifying share scheme, the employee is taxed on the discount when he or she acquires the shares or options.

Under the new arrangements, all discounts on shares and options under an employee share scheme, whether qualifying or non-qualifying, will be assessed in the year in which they are acquired. Therefore employees acquiring shares or options under qualifying share schemes will no longer be able to elect to defer taxation on their discount to a later time.

Further, the \$1,000 tax exemption will be limited to those employees with a taxable income of less than \$60,000 after adjustment for fringe benefits, salary sacrifice and negative gearing losses.

The measure will apply to shares and options acquired after 7.30pm on 12 May 2009.

*Source: Budget Paper No 2 p 18; Treasurer's Press Release No 5.*

[top](#)

### **Non-commercial losses rules**

From the 2009/10 income year, taxpayers with an adjusted taxable income of over \$250,000 will have excess deductions quarantined to the business activity under the non-commercial losses rules. The existing rules will continue to apply to taxpayers with an adjusted taxable income of \$250,000 or less. Taxpayers will still be able to apply for relief from the rules if there are exceptional circumstances or because the nature of the activities means that a taxpayer is temporarily carrying on an uncommercial business.

*Source: Budget Paper No 2, p 20; Treasurer's Press Release No 3, 12 May 2009.*

[top](#)

### **Foreign employment income exemption changes**

Currently, Australians working overseas for over 90 consecutive days are eligible for a general exemption which means they do not pay any Australian income tax on their foreign employment income.

From 1 July 2009, the foreign employment income exemption will only be available for income earned:

- as an aid or charitable worker employed by a recognised non-government organisation; or
- as a government aid worker; or
- as a specified government employee (for example, defence and police force personnel deployed overseas).

Income earned by an individual employed on an overseas project approved by the Minister for Trade as being in the national interest will remain exempt.

A tax offset will be available for any foreign tax paid on the foreign employment income.

*Source: Budget Papers No 2, p 19; Treasurer's Press Release No 4, 12 May 2009.*

[top](#)

## Family assistance

### Paid Parental Leave scheme

The government has announced that it will introduce a Paid Parental Leave scheme for parents in respect of births and adoptions that occur on or after 1 January 2011. Parents will be able to lodge claims from 1 October 2010. The scheme will provide 18 weeks postnatal leave paid at the federal minimum wage (currently \$543.78 per week).

To be eligible for the scheme, a parent in paid work:

- must have worked continuously with one or more employers for at least 10 of the 13 months before the expected date of birth or adoption;

- must have worked at least 330 hours in those 10 months (equivalent to around one full day of work each week); and

- must have an adjusted taxable income of \$150,000 or less in the financial year prior to the date of birth or adoption of the child.

Parents who are eligible for Paid Parental Leave will be able to continue to access employer funded leave (maternity leave and recreation leave) around the time of the birth or adoption of a child.

Paid Parental Leave will be available to contractors, casual workers and the self-employed. Payments made under the scheme will be taxable. Parents who receive paid parental leave will not receive the Baby Bonus (except in the case of twins or multiple births), or FTB-B during the 18 week Paid Parental Leave period. Mothers and primary carers not in full-time paid work will continue to receive the current forms of family assistance (including the Baby Bonus), if they meet the relevant eligibility requirements.

Superannuation payments will not initially be introduced for the Paid Parental Leave. Its introduction will be considered as part of a comprehensive review of scheme, within three years after the scheme's implementation.

### Family Tax Benefit and other family payments

From 1 July 2009, FTB-A payment rates will be indexed by the Consumer Price Index consistent with other family payments such as FTB-B and the Baby Bonus. This will replace the current arrangement whereby maximum rates of FTB-A for children under the age of 16 are benchmarked to a proportion of the combined couple rate of pension payments, or adjusted by the Consumer Price Index, whichever is higher.

The following higher income thresholds (which would ordinarily be indexed by the Consumer Price Index) for family payments will remain fixed until July 2012:

- the FTB-B primary earner income threshold, which will remain at \$150,000;

- the income threshold for receiving the dependency tax offsets, which will remain at \$150,000;

- the Baby Bonus eligibility threshold, which will remain at \$75,000 of family income in the six months following the birth or adoption of a child (equivalent to \$150,000 a year) and

- the higher income-free area of FTB-A, which will remain at \$94,316 of family income (plus \$3,796 for each child after the first).

*Source: Budget Paper No 2, p.238-239.*

[top](#)

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## **Small Business**

### **Small Business Tax Break extended**

The Small Business and General Business Tax Break will be expanded to allow a bonus deduction of 50 per cent to small businesses with a turnover of less than \$2 million that acquire an eligible asset between 13 December 2008 and 31 December 2009 and install it ready for use by 31 December 2010.

The previously announced 30 per cent and 10 per cent bonuses will continue to apply to all other businesses.

*Source: Budget Paper No 2, pages 31-32, Treasurer's Press Release No 9, 12 May 2009.*

[top](#)

### **Entrepreneurs' tax offset income test deferred**

The application of the income test for the entrepreneurs' tax offset (ETO) announced in the 2008/09 Budget will be deferred for 12 months.

The government said the deferral ensures that the timing and nature of the income test is consistent with its broader income testing reforms. The government will consult on the form of the income test, which will apply from the 2009/10 financial year.

*Source: Budget paper No 2, p 14; Assistant Treasurer's Press Release No 3, 12 May 2009, Attachment G.*

[top](#)

### **Income recovery subsidy payments for Australian disasters**

The government has made the income recovery subsidy payments for the Victorian bushfires and for the North Queensland floods of January and February 2009 exempt from income tax. These payments will also be excluded from the calculation of separate net income, which is used to determine entitlement to certain tax offsets.

*Source: Budget Paper No 2, page 26.*

[top](#)

### **Victorian bushfire exemptions**

The Clean-up and Restoration Grants paid to small businesses and primary producers affected by the Victorian bushfires will be exempt from income tax with effect from 1 July 2008. Business related expenses that are funded by using the grant would generally be deductible.

*Source: Budget Paper No 2 p 37.*

[top](#)

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## Companies and trusts

### New R&D tax credit

From 2010/11, the current R&D concession will be replaced by the R&D Tax Credit. The government will consult further on the eligibility criteria in developing legislation for the new tax credit. A consultation paper will be released in the next few months.

The new R&D tax credit will provide a 45% refundable credit for firms with an annual turnover of less than \$20m (ie equivalent to a 150% deduction). The credit will be available to small companies in a loss position, with no limit on the level of R&D expenditure undertaken.

Businesses with a turnover of more than \$20m will be entitled to a 40% non-refundable credit (equivalent to a 133% deduction).

Companies undertaking R&D in Australia where the intellectual property is held offshore will also be able to access the 40% non-refundable credit.

As a transitional measure for 2009/10, the R&D expenditure cap for the existing R&D Tax Offset will be lifted from \$1m to \$2m.

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

*Source: Treasurer's Press Release No 8, 12 May 2009.*

[top](#)

### Deemed dividends

From 1 July 2009, the non-commercial loan rules will be extended to payments by way of a licence or right to use real property and chattels. This will reduce the scope for private companies to allow their shareholders or associates to use company assets such as real estate, cars and boats for free or at less than arm's length value. Other technical amendments will be made to Div 7A of ITAA 1936, including to ensure that corporate limited partnerships cannot be used to avoid its operation.

*Source: Budget Paper No 2, p 21; Treasurer's Press Release No 3, 12 May 2009.*

[top](#)

### Medibank Private — conversion to a “for profit” enterprise

The government will convert Medibank Private to a “for profit” government-owned business enterprise in early 2009/10. This will improve the competitive neutrality between Medibank Private and 'for profit' competitors by making Medibank Private liable for company tax and dividends.

The government remains committed to keeping Medibank Private in public hands.

*Source: Budget Paper No 2, page 8.*

[top](#)

## **Life insurance immediate annuity business**

Legislation will be introduced to confirm that the non-assessable non-exempt income of life insurance companies includes income from assets supporting immediate annuity policies that satisfy the pre-July 2000 immediate annuity conditions, with effect from 1 July 2002. The immediate annuity conditions will not apply to immediate annuity policies that are superannuation income streams, with effect from the 2007/08 income year.

In addition, from the 2007/08 income year, the approved annuity conditions will not apply to immediate annuity policies issued by life insurance companies that are superannuation income streams. This will ensure that all providers of superannuation income streams are taxed consistently.

*Source: Budget Paper No 2 p 24; Assistant Treasurer's Media Release No 3, Attachment C.*

[top](#)

## **Review of foreign source income attribution regimes**

Australia's foreign source income attribution regimes will be reformed with effect for income years on or after Royal Assent to the legislation.

These changes implement most of the recommendations of the Board of Taxation review of the attribution regimes. To implement the Board's recommendations, the government will:

- modernise the controlled foreign company (CFC) provisions and rewrite them into ITAA 1997

- repeal and replace the foreign investment fund (FIF) provisions with a specific narrowly-defined anti-avoidance rule

- repeal the deemed present entitlement rules, and

- amend the transferor trust rules to enhance their effectiveness and improve their integrity.

The government will consult on the implementation of these reforms.

*Source: Budget Paper No 2, p 23; Assistant Treasurer's media release No 02, 12 May 2009.*

[top](#)

## **Uniform Capital Allowance technical — minor changes**

The government has announced that it will make 28 technical amendments to the Uniform Capital Allowance (UCA) rules. The technical amendments include changes to the rules for:

- mining rights

- low-value pools

- software pools

- project pools

- the interaction of Div 40 (the UCA rules) and Div 240 (hire purchase arrangements)

- sale and leaseback arrangements

- the definition of "depreciating asset"

- the calculation of "cost".

*Source: Budget Paper No 2, p 37; Assistant Treasurer's Press Release No 3, 12 May 2009, Attachment D.*

[top](#)

## **Off-market share buy-backs**

The government will implement the recommendations of the Board of Taxation to improve the taxation treatment of off-market share buy-backs, with effect from the date of Royal Assent of the amending legislation.

To implement the Board's recommendations, the government will introduce legislation to:

establish a self-executing specific provision to debit the franking account of a company that undertakes an off-market share buy-back to cancel the tax benefit of streaming imputation credits from non-resident to resident shareholders

deny notional losses to shareholders that participate in off-market share buy-backs conducted by listed companies modify the income tax law to specify the basis for determining the capital/dividend split, extend the period of lodgement for a distribution statement for a company conducting an off-market share buy-back, and confirm that certain integrity rules do not apply to tender style off-market share buy-backs, and transfer the share buy-back provisions from ITAA 1936 to ITAA 1997.

The government also endorses the Board recommendation that the Tax Office remove the "14% administrative cap" on the level of discount for off-market share buy-backs undertaken by listed companies.

*Source: Budget Paper No 2, pp 25-26; Assistant Treasurer's Press Release No 3, 12 May 2009, Attachment B.*

[top](#)

## **Thin capitalisation changes for approved ADIs**

The government will change the thin capitalisation regime for approved authorised deposit taking institutions (ADIs), with effect 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.

*Source: Budget Paper No 2, p 22; Assistant Treasurer's Press Release No 3, 12 May 2009, Attachment E.*

[top](#)

## **Managed investment trusts**

Australian managed investment trusts (MITs), except those that are taxed like companies, will be able to make an irrevocable election to apply the CGT regime as the primary code for taxing certain disposals of assets, with effect from the 2008/09 income year. This measure will ensure that the taxation treatment of disposals of assets (primarily shares in a company, units in a unit trust and real property investments) by MITs is consistent with the taxation treatment of disposals of similar investments by complying superannuation funds, subject to appropriate integrity rules, including that the investments meet the eligible investment business rules in Div 6C of the ITAA 1936.

MITs that can elect into the regime will be required to make an irrevocable election to apply the CGT regime to all disposals of eligible investments in the first income year that commences on

or after the 2008/09 income year. Currently, gains and losses on disposal of investments by MITs may be on capital or revenue account, depending upon the characterisation of the investment activities concerned.

This means 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, and 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.

*Source: Budget Paper No 2 p 24; Assistant Treasurer's Press Release No 2, 12 May 2009.*

[top](#)

### **CGT: limited roll-over for fixed trusts**

A limited CGT roll-over will be provided for assets transferred between trusts that have the same beneficiaries with the same entitlements and no material discretionary elements (ie fixed trusts), with effect from 1 November 2008. Typically, the transfer of assets from one trust to another would trigger a CGT taxing point.

As a result of this measure, trustees of eligible trusts will be able to defer the CGT consequences of the asset transfer until the receiving trust subsequently deals with the asset. This will allow eligible trusts to restructure without immediate CGT consequences. The measure will be accompanied by appropriate integrity rules.

*Source: Budget Paper No 2, p 12; Assistant Treasurer's Press Release No 3, 12 May 2009, Attachment F.*

[top](#)

### **TFN requirements for closely held trusts**

From 1 July 2010, the tax file number (TFN) withholding arrangements will apply to closely held trusts, including family trusts. Such trusts will need to withhold amounts from trust distributions at the top marginal rate if taxpayers have not provided their TFN to the trustee. The measure will not apply to income on which tax is directly payable by the trustee of the trust (eg income assessable to minors). Individuals who have tax withheld by trustees can claim a credit for that tax in their tax returns.

*Source: Budget Paper No 2 p 19; Treasurer's Press Release No 3, 12 May 2009.*

[top](#)

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## **Philanthropy**

### **Response to Word Investments case**

The government has released its interim response to the High Court decision in *FC of T v Word Investments Ltd* [2008 ATC 20-072]. In that decision, two issues were resolved in favour of the taxpayer, and contrary to longstanding public tax rulings: (1) commercial businesses with charitable objects that direct their profits to charities are themselves charitable; and (2) charities are considered to be pursuing their objectives principally “in Australia” if they merely pass funds within Australia to another charity that conducts its activities overseas.

The government will amend the “in Australia” requirements in Div 50 of ITAA 1997 to ensure that parliament retains the ability to fully scrutinise those organisations seeking to pass money to overseas charities and other entities. This measure will have effect from the date of Royal Assent of the amending legislation.

The government notes the competitive neutrality issues that the Court’s decision may raise and the differing approaches of other countries in dealing with those issues. It intends to await the outcome of the Henry Review into Australia’s future tax system and the Productivity Commission’s inquiry into the contribution of the not-for-profit sector before further responding to the court’s decision. While the government awaits the reports of the reviews, it has asked Treasury and the Tax Office to monitor the sector and advise it immediately should any adverse implications arise. The government is prepared to act sooner should any adverse implications arise.

*Source: Assistant Treasurer's media release No 8, 12 May 2009.*

[top](#)

## **Deductible gift recipient review**

The government will provide a mechanism to conduct a triennial review of the guidelines for, and organisations on, the four deductible gift recipient (DGR) registers, with effect from the 2009/10 income year. The review is designed to bring the governance of the registers in line with those DGRs that are endorsed and accountable to the Australian Taxation Office. The government will also make a minor change to the taxation secrecy disclosure rules to ensure that participating agencies can share any necessary information in support of the reviews.

*Source: Budget Paper No 2, pages 28 - 31.*

[top](#)

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# **Tax administration**

## **Tax Office strategic compliance package**

The government will provide \$595.2m over four years to help businesses remain viable in the face of the global recession, to tackle emerging revenue risks and promote community confidence in the tax system. The measures are estimated to collect additional net revenue of \$1,383.6m through enhanced compliance.

The funding will support four key measures:

- \$100.1m will be provided over four years to support small businesses and other taxpayers experiencing difficulties meeting their tax liabilities as a result of the global recession

- \$122m will be provided over three years starting from 2010/11 to the multi-agency taskforce under Project Wickenby to continue the investigation and prosecution of tax haven abuse

- \$302.1m will be provided over four years to the Tax Office to ensure that, as Australia’s economy recovers, wealthy Australians and large and medium sized businesses continue to meet their tax obligations

- \$70.9m will be provided over four years to the Tax Office to ensure a level playing field for small business by addressing the cash economy and unfair competitive practices.

*.Source: Assistant Treasurer's media release No 4, 12 May 2009.*

[top](#)

## Streamlining the tax law design process

The government will implement an outstanding recommendation of the Tax Design Review Panel to make greater use of private sector experts in the tax design process. It will provide Treasury with additional funding to fund private sector experts on the practical and commercial issues arising from proposed tax changes which will lead to improved tax legislation.

The government has also released a discussion paper to progress the panel's recommendation that consideration be given to whether or not the Commissioner should be given further powers to modify the tax law to give relief to taxpayers, as previously announced by the Assistant Treasurer. The paper — which canvasses the pros and cons of an extra-statutory concession — seeks views on how a provision could be designed and implemented if introduced. The paper will be open for consultation for eight weeks and is available on the Treasury website.

*Source: Assistant Treasurer's media release No 3, 12 May 2009.*

[top](#)

## Repeal of unlimited amendment periods

There will be more certainty for taxpayers with the repeal of provisions in the income tax laws that provide the Commissioner with an unlimited period in which to amend an item in a taxpayer's income tax return. This measure will take effect from the date of Royal Assent of the enabling legislation. The government considers that the general amendment period provisions provide the Commissioner with sufficient time to review an assessment.

*Source: Budget Paper No 2 p 31; Assistant Treasurer's Press Release No 3.*

[top](#)

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## Other superannuation and retirement measures

### Pension age to be increased to 67

The age pension age will be gradually increased to 67 years of age. The new pension changes will apply to new pension entrants from 1 July 2017, which will mean that it applies to people who are 57 years of age or younger on July 2009.

The following table indicates the new age pension ages:

Date	New age pension age	Affects people born	When group reaches new age pension age
1 July 2017	65 years and 6 months	1 July 1952 to 31 December 1953	1 January 2018 to 30 June 2019
1 July 2019	66 years	1 January 1954 to 30 June 1955	1 January 2020 to 30 June 2021
1 July 2021	66 years & 6 months	1 July 1955 to 31 December 1956	1 January 2022 to 30 June 2023
1 July 2023	67 years	From 1 January 1957	From 1 January 2024

The reform to the age pension arose out of the Pension Review Report which was also released in tonight's budget.

*Source: Minister for Families, Housing, Community Services and Indigenous Affairs Press Release No 13, 12 May 2009.*

[top](#)

## **Lost superannuation accounts amendments**

Two small amendments have been made to the treatment of lost superannuation amounts. These changes are:

superannuation providers will be required to transfer lost accounts with balances less than \$200, or which have been inactive for five years and for which there are insufficient records to identify the owner of the account, to unclaimed monies. This measure will apply from the 2010/11 income year

superannuation provider's obligations under the unclaimed money regime will be matched with the requirements of the temporary resident unclaimed superannuation regime. The amended regime will apply to payments of unclaimed money due after 1 July 2009.

*Source: Budget Paper No 2, pp 34–35; Minister for Superannuation and Corporate Law Press Release No 1, 12 May 2009.*

[top](#)

## **Pension drawdown relief extended**

The minimum drawdown amount for account-based pensions will be halved for the 2009/10 income year. This extends the current concession provided to self-funded retirees for the 2008/09 income year.

The Seniors Supplement payment will also be made available to certain self-funded retirees. Self-funded retirees who are eligible for the Senior's Health Card or the Department of Veteran's Affairs Gold card with Seniors Concession Allowance will be eligible for the annual payment of \$790.40 for singles and \$1190.80 for couples.

*Source: Budget Paper No 2, p 33; Treasurer's Press Release No 7.*

[top](#)

## **Retirement incomes report released**

The Australia's Future Tax System Review Panel has released its report into retirement incomes. The review supports the current three-pillared system with some minor amendments. The major recommendations of the review include:

increasing the age pension age to 67 years

maintaining the current superannuation guarantee threshold of 9%

aligning the superannuation preservation age with the age pension age

undertaking further examination into the concessional tax treatment for superannuation contributions and for salary sacrifice arrangements.

The final version of the panel's report will be released in December 2009.

*Source: The retirement income system: Report on strategic issues: Treasurer's Press Release No 7, 12 May 2009.*

[top](#)

## **Australia-New Zealand superannuation portability scheme**

Australia and New Zealand have agreed in principle to allow movement of superannuation benefits between Australian and New Zealand superannuation funds. The final details of the scheme are currently being settled with New Zealand.

*Source: Budget Paper No 2, p 36.*

[top](#)

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# **Indirect and other taxes**

## **GST measures**

Forty one of the forty six recommendations made by the Board of Taxation in relation to the administration of the GST will be implemented. The key components include:

- harmonising the GST law and the income tax self assessment regime and rulings regime
- adopting more principled and flexible GST grouping rules
- simplifying the GST adjustment provisions and
- reforming the GST treatment of sales of going concerns and farmland.

Most of the recommendations with substantial changes to the GST law will apply from 1 July 2010.

Treasury will undertake reviews of the GST margin scheme and the application of GST to financial supplies, designed to simplify the operation of the legislation and reduce both compliance and administrative costs.

The Board of Taxation has also been asked to review the application of the GST to cross-border transactions with a view to simplifying the current law and reducing the number of non-residents required to register for GST.

GST compliance costs for businesses involved in the domestic transport of exported and imported goods will be reduced with effect from 1 July 2010. The liability for paying GST on the domestic transport of imported goods will be shifted from the transport service supplier to the importer of the goods, easing compliance costs. The definition of "place of export" will be amended for containerised non-postal goods from the place of containerisation to the place from which the goods are sent, improving consistency in the GST treatment of postal and non-postal containerised goods. Sub-contracted domestic transport services that are part of the domestic leg of an export transport service will be made taxable/creditable, even though goods may be for export ultimately, assisting sub-contracted transport suppliers with GST compliance.

The GST law will be amended to clarify the GST treatment of the Carbon Pollution Reduction Scheme with effect from the introduction of the scheme. The changes ensure consistent GST treatment for all units recognised under the scheme by treating eligible international units and all Kyoto units as personal property rights and not rights within the meaning of real property in the GST law.

*Source: Budget Paper No 2, pages 13, 16-17; Assistant Treasurer's Press Release No 9 and Attachment A.*

[top](#)

## **Indirect Tax Concession Scheme**

The list of countries eligible for indirect tax refunds (including for GST) for diplomatic and consular representation under the Indirect Tax Concession Scheme has been increased. The countries eligible for new or upgraded concessions are Brazil, Egypt, France, Libya, Nepal, Vietnam, Eritrea, Iraq, Oman, Paraguay, Vietnam, and the Former Yugoslav Republic of Macedonia.

*Source: Budget Paper No 2, p 21-22.*

[top](#)

## **Petroleum resource rent tax**

The offshore exploration incentive in the petroleum resource rent tax (PRRT) will be extended by one year, enabling the incentive to apply to the 2009 annual offshore acreage release (which will be announced in June). The incentive allows a 150% uplift on PRRT deductions for exploration expenditure incurred in designated offshore frontier areas (DFAs). DFAs must be more than 100 kilometres from an existing commercialised oil discovery, and must not be adjacent to an area designated in the previous year's acreage volume. DFAs may constitute up to 20% of exploration permits issued in a year. This measure has applied to the annual offshore acreage releases for 2004 to 2008.

*Source: Budget Paper No 2 p 27; Assistant Treasurer's Press Release No 10.*

[top](#)

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# **Carbon Pollution Reduction Scheme**

## **Carbon Pollution Reduction Scheme**

### Revised implementation

The government will delay the start date of the Carbon Pollution Reduction Scheme by one year, to 1 July 2011, to help Australian businesses manage the impacts of the global recession.

A fixed price of \$10 per tonne of CO<sub>2</sub>-e will apply to emissions in 2011/12. The market will then set the price of Australian Emissions Units dated 2012/13 onwards.

Previously announced industry and household assistance will be delayed until the scheme is introduced in 2011/12.

On commencement of the scheme, emissions-intensive trade-exposed assistance and the Electricity Sector Adjustment Scheme will be delivered in a way that provides assistance equivalent to the assistance that would have been received if the price were flexible (but the price at acquittal of liability were \$10 per tonne of CO<sub>2</sub>-e).

In 2011/12, household assistance will be proportionately adjusted to align the level of assistance with the lower estimated cost of living impacts resulting from an initial \$10 fixed carbon price. In 2012/13, household assistance will be provided on the basis of the estimated cost of living

impacts of a flexible carbon price. Each year, the adequacy of this assistance will be reviewed in the context of the Budget.

Fuel tax transitional arrangements will be deferred by one year, with all other elements kept in place, and calibrated to the expected carbon price.

Further information can be found in the press releases of 4 May 2009 issued by the Prime Minister, Treasurer and Minister for Climate Change and Water.

#### Income tax treatment of units

With effect from the introduction of the Carbon Pollution Reduction Scheme all Kyoto units registered in Australia will be subject to the scheme's proposed tax treatment, whether or not a unit can be surrendered to meet an Australian emissions liability. Any income that is derived from units registered in Australia will be treated as having an Australian source and as assessable in Australia (subject to Australia's Double Tax Treaties).

Units held by a taxpayer will be valued at historical cost unless they elect the alternative market value method.

*Source: Budget Paper No 2, pages 7 and 13.*