

The new Government was mindful on delivering on its election promises to working families. Mr Swan called this budget a “inflation fighting budget” but once you analyse the changes, the Government was very focussed in their approach to ensure the few tax saving opportunities that were available were drastically tightened.

Nelson Wheeler Nexia have provided you with a summary of the 2008 Federal Budget.

PERSONAL INCOME TAX CUTS

Current tax thresholds income range (\$)	%	New tax thresholds to apply from 1 July 2008 income range (\$)	%	New tax thresholds to apply from 1 July 2009 income range (\$)	%	New New tax thresholds to apply from 1 July 2010 income range (\$)	%
0-6,000	0	0-6,000	0	0-6,000	0	0-6,000	0
6,001-30,000	15	6,001- 34,000	15	6,001- 35,000	15	6,001- 37,000	15
30,001-75,000	30	34,001-80,000	30	35,001-80,000	30	37,001-80,000	30
75,001-150,000	40	80,001-180,000	40	80,001-180,000	38	80,001-180,000	37
150,001+	45	180,001+	45	180,000+	45	180,000+	45

Medicare Levy thresholds increased for 2007-08

From the 2007-08 income year, the Medicare levy low-income thresholds will be increased for singles to \$17,309 (up from \$16,740) and to \$29,207 for those who are members of a family (up from \$28,247 for 2006-07). The additional amount of threshold for each dependent child or student will also be increased to \$2,682 (from \$2,594).

Medicare levy surcharge thresholds to be increased

The Treasurer announced that the 1% Medicare levy surcharge threshold for singles would increase from \$50,000 to \$100,000, and for a family, from \$100,000 to \$150,000, with effect from 1 July 2008.

Senior Australian’s Threshold Income Levels increase

The amount of income a senior Australian eligible for the senior Australian’s tax offset can earn before they incur an income tax liability will increase to \$28,867 for singles and \$24,880 for each member of a couple from 1 July 2009 and to \$30,685 for singles and \$26,680 for each member of a couple from 1 July 2010. The relevant Medicare levy low-income threshold will be increased to ensure that senior Australians do not pay the Medicare levy until they begin to pay income tax.

Family income test for entrepreneurs' offset

The Government will introduce a family income test for the entrepreneurs' tax offset. The family income test will limit access to the offset by restricting eligibility for singles from \$70,000 and families from \$120,000 adjusted taxable income per year.

Family Tax Benefit Part B

From 1 July 2008, an income test will be introduced so that FTB Part B will only be available to families where the annual adjusted taxable income of the principal earner does not exceed \$150,000 (before the November 2007 election, the ALP had proposed a \$250,000 threshold). From 1 July 2009, FTB will only be delivered through Centrelink and Medicare, thereby removing claims through the tax system.

Baby Bonus

From 1 July 2008 the Baby Bonus will be increased to \$5,000 (and it will be indexed annually on 1 July). In addition, from 1 January 2009, the Baby Bonus will be paid in fortnightly instalments and an income test will be introduced so that it will only be available where family income does not exceed \$150,000 a year.

Child Care tax offset

This will be increased from 30% to 50%. In addition, the cap on the amount that can be paid will be lifted from \$4,354 to \$7,500 per child and the offset will be paid quarterly (these are also election commitments).

From 1 July 2009, there will be changes to the definitions of income for family assistance purposes to include net financial investment losses and certain salary sacrifice superannuation contributions.

Education tax refund

The Government has confirmed that it will introduce a refundable tax offset (the Education Tax Refund), to help with the costs of education. The offset will be claimed through the tax system on lodgement of an income tax return. Families receiving Family Tax Benefit (Part A) will be eligible.

Eligible families will be able to claim a 50% refund every year for key education expenses up to:

- \$750 for each child undertaking primary studies (maximum refundable tax offset of \$375 per child, per year); and

- \$1500 for each child undertaking secondary studies (maximum refundable tax offset of \$750 per child, per year).

BUSINESS CHANGES

Election requirements for employee share schemes

In the 2008-09 Federal Budget, the Government announced that a taxpayer will be required to make an election to access the tax concessions available when receiving qualifying shares or under an employee share scheme.

FBT Meal Cards

The FBT exemption for private use of business property will be tightened by excluding meals provided as part of a salary sacrifice arrangement.

The existing FBT exemption allows employees with a "meal card" arrangement to purchase meals out of their pre-tax income. Under a "meal card" arrangement, an employer pays for an employee's meals, provided by a third party (for example, a café or catering service) located on, or delivered to, the employer's premises. The government said that the FBT exemption for property consumed on an employer's premises was originally intended to exempt benefits provided from an employer to an employee that were modest in amount. This rationale does not apply to "meal card" arrangements.

This measure will not affect subsidised canteens that are provided to all staff and that are not part of a salary sacrifice arrangement.

FBT Jointly Held Assets

The FBT law will be amended to ensure it applies appropriately where an employer provides an employee and their associate with a fringe benefit in relation to a jointly held investment asset (for example, a low interest loan or reimbursement of expenses related to a rental property or shares).

The Government will amend the FBT law to overcome the NAB decision to ensure that the "otherwise deductible rule" applies appropriately in the case of jointly held assets, ie the rule will not apply to reduce the taxable value of the associate's share of the expenses from that time. The Government said that this 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 and restore equity of treatment between taxpayers who incur expenses on jointly held investment properties.

FBT Work related items

The FBT exemption for eligible work-related items such as laptop computers and mobile phones will be limited.

The list of eligible work-related items currently includes laptops or similar portable computers, computer software, electronic diaries, personal digital assistants or similar items, certain portable printers, calculators, mobile phones, briefcases, tools of trade and protective clothing. The government has announced that the FBT exemption will only apply where these items are used primarily for work purposes and will be limited to one item of each type per employee, per FBT year unless it is a replacement item. With the exception of mobile phones, computer software and protective clothing, the current FBT exemption for work-related items is available without any requirement that their actual use be work-related.

Depreciation denied

The government has also announced that the income tax law will be amended to disallow employees from claiming depreciation for the work-related percentage of FBT-exempt items. This will prevent taxpayers claiming depreciation in these circumstances from obtaining a double benefit.

Date of effect

The changes to the FBT exemption for work-related items will apply to items purchased after 7.30 pm (AEST) on 13 May 2008.

The changes that disallow depreciation for FBT-exempt items will take effect as follows:

- for items purchased after 7.30 pm (AEST) on 13 May 2008, this measure will take effect from that time;
- for items purchased before 7.30 pm (AEST) on 13 May 2008, employees will be denied depreciation for the 2008-09 and later income years.

Modifications to consolidation regime to proceed

The Government will proceed with modifications to the consolidation regime. These changes are designed to clarify the operation of the consolidation regime and improve interactions with other parts of the law.

Unless otherwise specified, the amendments will apply from 1 July 2002 ie: from the commencement of the consolidation regime. However, the Government says the application dates and the need for appropriate transitional rules will be reviewed as part of the ongoing consultation process with business and professional groups during the development of legislation to implement these changes.

Luxury car tax rate increased

Luxury Car Tax (LCT) will increase from 25% to 33% with effect from 1 July 2008. The Government said there would be no changes to the luxury car tax threshold, currently \$57,123.

Depreciation of computer software

The depreciation period for expenditure on "in-house computer software" which is capital in nature will be increased from 2.5 years to 4 years. A 4-year depreciation period for expenditure on in-house computer software is the same period as the Commissioner's effective life determination for computer hardware.

CGT small business concessions extended

The Government will increase access to the CGT small business concessions via the \$2m aggregated turnover test for taxpayers owning a CGT asset used in a business by a related entity and for partners owning a CGT asset used in the partnership business, with effect from the 2007-08 income year.

Consolidation: CGT scrip for scrip roll-over for corporate restructures

The Government have tightened the CGT rule for scrip to scrip roll over for corporate restructures.

GST Sale of real property

The Government has announced that it will not proceed with a tax integrity measure, which was designed to prevent the interaction of the margin scheme with the GST free going concern and the GST free farmland provisions from inappropriately reducing GST revenue.

Instead, the Government will introduce a better targeted integrity measure. This revised measure provides that, where the margin scheme is used after a GST free or non-taxable supply, the value added by the registered entity which made the supply is included in determining the GST subsequently payable under the margin scheme. Furthermore, this measure will strengthen the GST anti-avoidance provisions to ensure that they can apply to contrived arrangements entered into to avoid GST.

The revised measure will have effect from the date of Royal Assent of the enabling legislation.

Distributions from managed investment funds

The Government has announced that it will introduce a new withholding tax regime on certain distributions from Australian managed investment trusts (MITs) to foreign resident investors. This was an ALP election commitment.

The new withholding tax regime will apply to fund payments that are distributions of Australian source net income (other than dividends, interest and royalties) of Australian MITs to foreign residents. It will cover distributions made directly from MITs to foreign residents, as well as distributions made through other intermediaries (including custodians). Distributions of dividends, interest and royalties will continue to be covered by the existing final withholding tax arrangements.

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. The list of jurisdictions with which Australia has effective EOI will be specified in regulations. Residents of such jurisdictions will be subject to:

- a 22.5% non-final withholding tax for fund payments of the first income year after the enabling legislation receives Royal Assent;
- a 15% final withholding tax for fund payments of the second income year; and
- a 7.5% final withholding tax for fund payments of the third and later income years.

For the first income year, as an interim measure, investors resident in EOI jurisdictions will be eligible to claim a deduction for expenses relating to fund payments. The net amount will be subject to tax at a new rate of 22.5 per cent.

Residents of non-EOI 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.

Capital Protected Borrowings – change to benchmark interest rate

The Government will amend the rules dealing with the taxation of capital protected borrowing arrangements entered into from 7.30 pm (AEST) on 13 May 2008. The benchmark interest rate in the capital protected borrowing rules will be changed to the Reserve Bank of Australia's indicator variable

rate for standard housing loans. Interest expense on a capital protected borrowing in excess of this level will be treated as the cost of capital protection and not deductible if on capital account.

A typical capital protected borrowing is a limited recourse loan facility to fund the purchase of listed shares. Under such an arrangement, the investor is protected from a fall in the price of the shares by a capital protection feature. The current law, which applies the RBA's indicator variable rate for personal unsecured loans to determine the cost of capital protection, will continue to apply to existing capital protected borrowing arrangements for a period of 5 years or the life of the product, whichever is the shorter.

This newsletter is published for the information of clients and should not be used or relied upon as advice. For specific advice on any matters please contact your Nexia adviser on (02) 9251-4600.