2016/2017 BUDGET UPDATE
Superannuation reform changes

1. Effective Budget Night – 7.30pm (AEST) 3 May 2016

1.1 New lifetime cap for non-concessional superannuation contributions

The government will introduce a $500,000 lifetime **non-concessional** contributions cap.
The lifetime cap will take into account all non-concessional contributions made on or after **1 July 2007 (i.e., from the 2008 income year)** and will be indexed in $50,000 increments in line with average weekly ordinary times earnings.
If an individual has exceeded the cap *prior to* commencement date (being 7.30 pm (AEST) on 3 May 2016 (i.e., Budget night)), they will be taken to have used up their lifetime cap but will not be required to take the excess out of the superannuation system.
However, if *after* commencement, an individual makes non-concessional contributions that cause them to exceed the cap, they will be notified by the ATO and must withdraw the excess from their fund. Individuals who choose not to withdraw contributions will be subject to penalty tax.
It is important to be aware that the lifetime non-concessional contributions cap will **replace** the existing non-concessional contributions cap, which allow non-concessional contributions of up to $180,000 per year (or $540,000 every three years for individuals aged under 65).
Note that, similar changes are proposed to apply to contributions into defined benefit accounts and constitutionally protected funds.

2. Changes effective from 1 July 2017 (i.e., effective from the 2018 income year)

2.1 Allow catch-up concessional superannuation contributions

From 1 July 2017, the government will allow individuals with a superannuation balance of less than
$500,000 to make additional **concessional** contributions where they have not reached their concessional contributions cap in previous years.

Only unused amounts accrued **from 1 July 2017** can be carried forward, and can only be carried forward on a rolling basis for a period of five consecutive years.
Allowing people to carry forward their unused concessional cap provides them with the opportunity to 'catch-up' if they have the capacity and choose to do so.
The measure will also apply to members of defined benefit schemes.

2.2 Taxing earnings on assets supporting a Transition to Retirement Income Stream

From 1 July 2017, the government will remove the tax exemption on earnings of assets supporting Transition to Retirement Income Streams ('TRIS'), being income streams of individuals over preservation age but not retired. Earnings from assets supporting a TRIS will be taxed at 15%.
Importantly, this change is proposed to apply irrespective of when the TRIS commenced.

2.3 Introduction of a $1.6 million 'superannuation transfer balance cap'

From 1 July 2017, the government will introduce a **$1.6 million** 'superannuation transfer balance cap' on the total amount of accumulated superannuation an individual can transfer into pension phase. Subsequent earnings on this pension balance will not be restricted.
By way of background, under current law, if a fund member moves from accumulation phase into **'pension phase'**, earnings on assets supporting the pension (income tax and capital gains) are **tax- free** in the fund (assuming no non-arm's length income and that the asset in question is a 'segregated pension asset' or the fund is wholly in 'pension phase'). Furthermore, there is **no limit** on the amount of accumulated superannuation that an individual can transfer into pension phase.
Under the proposed change, the 'superannuation transfer balance cap' will index in $100,000 increments in line with the consumer price index and a proportionate method will apply to determine the percentage of the cap space an individual has available at any point in time (e.g., if an individual has previously used up 75% of their cap they will have access to 25% of the current (indexed) cap). Note that, subsequent fluctuations in the pension balance due to earnings growth or pension payments are not considered when calculating cap space.
Under the proposed changes, if an individual accumulates amounts in *excess of* $1.6 million, they will be able to maintain this excess amount in an accumulation phase account (where earnings will be taxed at the concessional rate of 15%).
Importantly, fund members already in pension phase with balances *above* $1.6 million will be required to reduce this balance to $1.6 million by 1 July 2017 (e.g., it seems such action may include the withdrawal of funds from the superannuation environment, or return a portion of the balance held in pension to accumulation phase via a partial commutation).
It is proposed that, if the $1.6 million cap is exceeded, the excess amount plus earnings on the excess will be subject to a tax. It is not currently clear as to whether individuals will have the option to withdraw the excess to avoid this penalty tax (i.e., similar to the tax treatment

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currently afforded excess non- concessional contributions).

Commensurate treatment for members of defined benefit schemes is also proposed.

2.4 Reducing the concessional contributions cap

From 1 July 2017, the government will lower the annual cap on concessional superannuation contributions to **$25,000**. Until this time, the existing concessional contributions caps, being $30,000 for those aged under age 50 years, and $35,000 for those aged 50 years and over, will apply.

2.5 Changes to the contribution rules for those aged 65 to 74

From 1 July 2017, the government will remove the current restrictions on people aged 65 to 74 from making superannuation contributions for their retirement. Specifically, the government will remove the requirement that an individual aged 65 to 74 must meet the 'work test' before making voluntary or non- concessional contributions to superannuation.

2.6 Tax deductions for personal superannuation contributions

From 1 July 2017, the government will change the law to allow **all** individuals under age 75 to claim an income tax deduction for personal superannuation contributions. Individuals who are, for example, partially self-employed and partially wage and salary earners, and individuals whose employers do not offer salary sacrifice arrangements will benefit from the proposed changes.

However, individuals that are members of certain prescribed funds would *not* be entitled to deduct contributions to those schemes (prescribed funds include all untaxed funds, all Commonwealth defined benefit schemes, and certain defined benefit schemes that choose to be prescribed).

Under current law, a tax deduction for personal superannuation contributions is broadly limited to self-employed individuals, and substantially self-employed individuals (i.e., those that satisfy the '10% test').

2.7 Changes to the 'high income contribution rules' (Division 293)

Currently, Division 293 imposes an additional tax of **15%** on certain concessionally taxed contributions (e.g., certain concessional contributions) where an individual's total 'income' (basically, 'income for surcharge purposes' *less* reportable superannuation contributions) plus certain 'concessionally taxed contributions' for an income year **exceed $300,000**. Concessional contributions subject to tax under Division 293 are effectively taxed at 30%.

From 1 July 2017, the government will lower the Division 293 threshold (i.e., the point at which high income earners pay *additional* contributions tax of 15%) **from $300,000 to $250,000**.

Consistent with current law, the additional 15% tax will be imposed on the whole amount of the contributions, up to the concessional cap, if 'income' for Division 293 purposes is above the threshold. Otherwise, the additional tax is only imposed on the portion of the contribution that takes the individual over the threshold.

The lower Division 293 'income' threshold will also apply to members of defined benefit schemes and constitutionally protected funds currently covered by the tax.

2.8 Removal of the anti-detriment provision in respect of death benefits

From 1 July 2017, the government will remove the anti-detriment (deduction) provision.

Briefly, the anti-detriment provision allows the spouse (or former spouse) and/or children of a deceased fund member to effectively obtain a refund of all contributions tax paid by the deceased member during their lifetime.

2.9 Removing election to treat pension payments as lump-sum payments

The government will remove the rule that allows individuals to treat certain superannuation pension payments as lump-sums for tax purposes (which currently makes them tax-free up to the low rate cap of $195,000).

Currently, an individual drawing down an account-based pension from their superannuation fund can generally make an election, under special income tax rules, for a benefit withdrawal not to be treated as a pension benefit. If such an election is made, the benefit withdrawal is treated (and taxed) as a lump sum benefit instead. As a result, the taxable component of such a withdrawal can be tax-free up to the low-rate cap (i.e., currently, $195,000), where the recipient member has reached their preservation age (but is under the age of 60).

2.10 Improve superannuation balances of low income spouses

From 1 July 2017, the government will increase access to the low income spouse superannuation tax offset by raising the income threshold for the low income spouse to $37,000 (from $10,800). The offset is gradually reduced for income above this level and completely phases out at income above $40,000.

The low income spouse tax offset provides up to $540 per annum for the contributing spouse.

In addition to the above, the government will make additional changes to support older Australians, including allowing individuals to make contributions on behalf of their spouse who is under age 75, without the need for the spouse to satisfy the work test.

2.11 Introducing a Low Income Superannuation Tax Offset (LISTO)

From 1 July 2017, the government will introduce a Low Income Superannuation Tax Offset ('LISTO') to reduce tax on superannuation contributions for low income earners.

The LISTO will provide a **non-refundable tax offset** to superannuation funds, based on the tax paid on concessional contributions made on behalf of low income earners, up to a cap of $500. The LISTO will apply to members with adjusted taxable income of **up to $37,000**

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that have had a concessional contribution made on their behalf.
This will effectively avoid the situation in which low income earners would pay more tax on savings placed into superannuation than on income earned outside of superannuation.
The LISTO will replace the Low Income Superannuation Contribution when it ends on 30 June 2017.

Other Budget announcements

1. Changes effective for the 2015/16 income year

1.1 Medicare levy low income thresholds for 2015/16

For 2015/16, the Medicare Levy low income thresholds will be as follows:

- Individuals $21,335 (previously $20,896)
- Families $36,001 (previously $35,261)

The family income threshold (i.e., $36,001) will be increased by $3,306 (previously $3,238) for each dependent child or student.
For single seniors and pensioners with no dependents who are eligible for the seniors and pensioners tax offset, the threshold will be increased to $33,738 (previously $33,044).

1.2 Income tax relief for Australian Defence Force personnel deployed overseas

The government will provide a full income tax exemption for Australian Defence Force personnel deployed on Operation PALATE II in Afghanistan. This income tax exemption has effect from 1 January 2016, and will remain in effect until 31 December 2016.
The government will also update the coordinates for Operation MANITOU in international waters, with effect from 14 May 2015, and Operation OKRA in the Middle East, with effect from 9 September 2015, to reflect the actual areas covered by the operations.

2. Changes effective 1 July 2016 (i.e., 2016/17 income year

2.1 Targeted personal income tax relief

From **1 July 2016**, the government will increase the 32.5% personal income tax threshold from $80,000 to $87,000.
This measure will reduce the marginal rate of tax on incomes between $80,000 and $87,000 from 37% to 32.5%, preventing around 500,000 taxpayers facing the 37% marginal tax rate.

2.2 Increasing the Small Business Income Tax Offset ('SBITO')

From **1 July 2016**, the government will increase the current 5% tax discount (referred to as the SBITO) to 8%. The discount is currently available to an individual in receipt of income from an unincorporated small business entity ('SBE') (i.e., basically, an entity with an aggregated turnover of less than $2 million), and applies to the income tax payable on the business income received from such an entity.
The discount will remain constant at 8% for eight years, and will then increase to:

- 10% in 2024/25;
- 13% in 2025/26; and
- 16% from 2026/27.

The current tax discount (or SBITO) cap of $1,000 per individual for each income year will be retained.

Furthermore, access to the discount will be extended to individual taxpayers with business income from an unincorporated business that has an aggregated annual turnover of less than $5 million.

2.3 Reducing the company tax rate over 10 years

The government will reduce the company tax rate to 25% over 10 years (i.e., by 1 July 2026).
This measure will commence from **1 July 2016**, whereby the government will cut the small business company tax rate to 27.5%, and make this tax rate available to small companies with an annual aggregated turnover of less than $10 million.
This turnover threshold will then be progressively increased to ultimately have all companies eligible for the 27.5% tax rate in 2023/24. The progressive increase in the annual aggregated turnover thresholds for companies eligible for the 27.5% tax rate will be as follows:

- $25.0 million in the 2017/18 income year;
- $50.0 million in the 2018/19 income year;
- $100.0 million in the 2019/20 income year;
- $250.0 million in the 2020/21 income year;
- $500.0 million in the 2021/22 income year; and
- $1 billion in the 2022/23 income year.

In the 2024/25 income year, the company tax rate will be reduced to 27% and then be reduced progressively by 1 percentage point per year until it reaches 25% in the 2026/27 income year.
Franking credits will be distributed in line with the rate of tax paid by the company.

2.4 Increasing the small business entity ('SBE') turnover threshold

From **1 July 2016**, the government will increase the SBE

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turnover threshold from $2 million to $10 million. The current $2 million turnover threshold will be retained for access to the small business capital gains tax ('CGT') concessions, and access to the SBITO (i.e., the increased 8% tax discount) will be limited to entities with turnover less than $5 million (as noted above).
The increased $10 million turnover threshold will allow an additional 90,000 to 100,000 business entities to gain access to certain small business concessions, such as the following:

- The lower (27.5%) small business corporate tax rate (noted above).
- The simplified depreciation rules in Subdivision 328-D of the ITAA 1997 (including the ability to claim an immediate deduction for an asset purchased costing less than $20,000 until 30 June 2017).
- Simplified trading stock rules, giving businesses the option to avoid an end of year stocktake if the value of their stock has changed by less than $5,000.
- The option to account for GST on a cash basis and pay GST instalments as calculated by the ATO.

2.5 Tax Integrity Package – Establishing the Tax Avoidance Taskforce

The government will provide $678.9 million to the ATO over the forward estimates period to establish a new Tax Avoidance Taskforce. This will enable the ATO to undertake enhanced compliance activities targeting multinationals, large public and private groups and high wealth individuals.
The Tax Avoidance Taskforce will conduct operations to improve tax compliance in high tax risk sectors, resulting in better targeted audits and higher collections.
The government will also ensure the ATO has access to the information it needs by enhancing information sharing between the ATO and the Australian Securities and Investments Commission. This supports the operation of the Taskforce through improved risk analysis and detection.

3. Changes effective 1 July 2017 (i.e., 2017/18 income year)

3.1 Applying GST to low value goods imported by consumers

From **1 July 2017**, GST will be extended to low value goods imported by consumers. The intent of this measure is to ensure that low value goods imported by consumers face the same tax regime as goods sourced domestically.
Overseas suppliers that have an Australian turnover of $75,000 or more will be required to register for, collect and remit GST for low value goods supplied to consumers in Australia, using a vendor registration model.
This change requires the unanimous agreement of the States and Territories.

4. Changes effective 1 July 2018 (i.e., 2018/19 income year)

4.1 Targeted amendments to Division 7A

From **1 July 2018**, the government will make targeted amendments to improve the operation and administration of Division 7A of the ITAA 1936, as a result of a number of recommendations from the Board of Taxation's Post-implementation Review into Division 7A.
These changes will provide clearer rules for taxpayers and assist in easing their compliance burden while maintaining the overall integrity and policy intent of Division 7A. The amendments will include:

- a self-correction mechanism for inadvertent breaches of Division 7A;
- appropriate safe-harbour rules to provide certainty;
- simplified Division 7A loan arrangements; and
- a number of technical adjustments to improve the operation of Division 7A and provide increased certainty for taxpayers.

4.2 Tax Integrity Package – Better protecting whistleblowers

From **1 July 2018**, the government will introduce new arrangements to better protect individuals who disclose information to the ATO on tax avoidance behaviour and other tax issues.
Under the new arrangements, individuals, including employees, former employees and advisers, disclosing information to the ATO will be better protected under the law.