Labor's first budget, a warm-up for things to come?

By Fordham
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It has been a big week in Tax!

Firstly, on 20 October 2022, the Second Commissioner of Taxation, Jeremy Hirschhorn, provided an annual address to attendees of the Tax Institute's '2022 Tax Summit'. This was an event attended by over 1,000 Australian tax practitioners and various media outlets.

Subsequently, on 25 October 2022, the Federal Treasurer of Australia, Hon Dr Jim Chalmers, handed down an updated 2022-23 Australian Federal Budget.

Second Commissioner's Address – 20 October 2022

At the Tax Institute's 2022 Tax Summit, the Second Commissioner shared some thoughts on Australia's Tax performance with several matters relevant to private businesses.

Whilst Mr Hirschhorn confirmed that as a representative of the ATO, he could not comment on policy matters, he was able to shed some light on Australia's 'Tax Gap' and 'Tax Collections'.

It was noted that Australia's overall Tax system is in good shape with an estimated 'performance' of 93%. This however means that there is an estimated 'Tax Gap' in tax collections of 7% which equates to about $33bn of missing tax. The Second Commissioner confirmed that this 'Tax Gap' cannot be ignored.

Of particular importance, it was noted that the small business market has always represented a high proportion of the overall Tax Gap, roughly equating to about $12bn. It is expected that the Covid-19 pandemic may have resulted in the Tax Gap associated with small business increasing.

In addition, the ATO is owed a large amount of money by taxpayers. A significant component of the ATO's 'debt book' belongs to small business. It was also noted that 86% of outstanding Superannuation Guarantee (SGC) debt is owed by small business employers.

From 1 November 2021, the ATO has resumed stronger actions in managing tax debts.

In our opinion, the above-mentioned references to the small business 'Tax Gap', ATO Debt Book, and unpaid SGC is likely to lead to increased ATO scrutiny in the private business market. It is also noted that the ATO treats unpaid SGC seriously on the basis that SGC is effectively money belonging to employees.

Should taxpayers be concerned about any of the above-mentioned matters, early engagement with the ATO is likely to be a prudent course of action. Should you need any assistance in dealing with these matters, please contact your Fordham representative.

Federal Budget Update 2022-23

On 25 October 2022, the Federal Treasurer of Australia, Hon Dr Jim Chalmers, handed down an updated 2022-23 Australian Federal Budget. As expected, there were no changes announced to personal income tax rates and the Stage 3 personal tax cuts will continue to apply from 1 July 2024 as legislated by the previous government.

Our economy is expected to grow this financial year by 3.25% before slowing to 1.5% growth for 2023/24. Unemployment is expected to stay low by historical standards at 4.5% in 2023/24 and 2024/25. Inflation is expected to peak at 7.75% later this year, before moderating over time to 3.5% through 2023/24 and returning to the Reserve Bank's target range in 2024/25.

From a tax perspective, this year's Budget highlighted a few tax matters. Whilst the devil is always in the detail and the announcements do not constitute law at this point, some relevant items to note include the following.

Extension of ATO Compliance Activity

Tax Avoidance Taskforce

The Government has boosted funding for the ATO Tax Avoidance Taskforce by around $200 million per year over 4 years from 1 July 2022, in addition to extending this Taskforce for a further year from 1 July 2025. The estimated increase in revenue from this measure is $2.8bn over 5 years.

Shadow Economy Program

The Government will extend the existing ATO Shadow Economy Program for a further 3 years from 1 July 2023. This is expected to increase revenue by $2.1bn over 5 years.

Personal Income Taxation Compliance Program

The Government will provide $80.3 million to the ATO to extend the Personal Income Taxation Compliance Program for 2 years from 1 July 2023. This is estimated to return $674.4m to revenue over the 3 years commencing 1 July 2023.

The total of the above announcements has provided an additional $1.8bn of funding for the ATO to expand their existing compliance programs in the hope of raising an additional $5.6bn of revenue.

Superannuation

Announced in the Budget was a reduction in the existing age-based restriction to access the Downsizer Contribution Scheme from 60 years to 55 years.

Also announced was a deferral in the previously announced, but unenacted measure, that proposed relaxing of the residency requirements for SMSFs from 1 July 2022 to the income year commencing on or after Royal Assent of the enabling legislation.

Multi-Nationals & Significant Global Entities (SGEs)

An announcement committing to their election campaign to introduce changes to the Thin Capitalisation world-wide gearing test, with reference to an earnings-based test that may limit debt deductions in accordance with an entity's profitability. It is proposed that the new rules will commence after 1 July 2023.

A proposal to introduce new anti-avoidance rules that will prevent SGEs from claiming tax deductions for payments made to related parties in relation to intangible assets held in low-tax foreign jurisdictions. This proposal is scheduled to apply on or after 1 July 2023.

The government intends to introduce further reporting requirements in relation to tax information that will be available to the public. This will affect SGEs, Australian public companies, and tenderers for certain Australian government contracts. The proposed start date for this is 1 July 2023.

Removal of previously announced, but unenacted measures

The Federal Government have announced that they will not be proceeding with the following measures from previous Budgets and MYEFO announcements, including but not limited to:

- Changes to debt/equity provisions.
- The introduction of the limited partnerships and collective investment vehicle taxation regime.
- Proposed changes to the annual audit requirements for SMSFs.
- The proposed introduction of a $10,000 cash payment limit for payments made to business for goods and services.

Other announcements and exclusions

The government has confirmed that they will provide $30.4m to the Tax Practitioners Board to increase investigations into high-risk tax practitioners and unregistered preparers.
The government is proceeding with the previously announced exemption for battery, hydrogen fuel cell and plug-in hybrid electric cars from FBT and import tariffs if they have a first retail price below the luxury car tax threshold for fuel-efficient cars (currently $84,916 for the 2022/23 financial year). This measure applies from 1 July 2022.

Notably absent from the Budget announcements were:

- Proposed significant changes to Division 7A
- Trust income re-write
- Proposed review and changes to CGT rollover provisions
- Proposed re-write of the individual tax residency rules

In summary, for private business owners, one of the more significant items to note is the government's allocation of significant resources to the ATO to crack down on tax avoidance. From a technical and also reform perspective, the government announcements were reasonably light but we would expect further initiatives to be announced in the future.

Should you require any further details on the Federal Budget announcements, please contact your Fordham representative.

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