Budget 2016

JOBS & GROWTH

Ensuring businesses pay the right amount of tax

The Government is committed to ensuring businesses pay the right amount of tax in Australia when they do business here. That is why we have already implemented tough new tax anti-avoidance laws that protect the integrity of Australia's tax base. The Government also recognises that more can and should be done. That is why the Government is committing to a series of further measures to tackle tax avoidance.

The issue

At a time when the burden of tax is being reduced for business, it's important that additional measures are taken to reinforce the integrity of Australia's corporate tax base.

A new Diverted Profits Tax

The Government is introducing a new Diverted Profits Tax (DPT) to ensure large multinationals pay the right amount of tax on profits made in Australia.

The new 40 per cent penalty tax will commence on 1 July 2017 and apply to multinationals using artificial or contrived arrangements to reduce tax by diverting profits offshore.

By providing the ATO with greater powers to deal with multinationals who seek to avoid tax, expanding the scope for identifying corporate tax avoidance and requiring upfront payment of the DPT, the new tax will be a strong incentive for multinationals to comply with Australia's income tax laws.

A consultation paper detailing the key design features of the DPT has been released with the Budget. The Government invites all interested parties to make a submission.

Budget impact

The Diverted Profits Tax is estimated to have a gain to revenue of $100 million per year from 2018-19.

A new Tax Avoidance Taskforce

Enforcement of existing laws and the tough new measures announced in the 2016-17 Budget will be supported by new funding to the ATO to establish a specialist new Tax Avoidance Taskforce.

The Taskforce, with a team of over 1,000 experts, will pursue tax avoidance by multinationals and high wealth individuals.

Budget impact

The Tax Avoidance Taskforce is estimated to have a gain to revenue of $3.7 billion over the next four years.

Preventing the exploitation of cross-border tax differences

The Government will close loopholes that allow multinational corporations to exploit differences between the tax treatment of entities and instruments across different countries to obtain an unfair tax advantage over purely Australian companies.

For example, a loan from a parent company to its subsidiary may be treated as equity in one country's tax law and debt in another. Without the Government's changes, the subsidiary of the multinational may have been allowed to claim a deduction for interest payments made to its parent but the parent company would not pay tax on those payments.

Measures to close loopholes such as these have been agreed by the OECD. Our tough new anti-hybrid rules will come into effect from 1 January 2018, or after the legislation is passed.

Budget impact

This measure has an unquantifiable gain to revenue.

Preventing the use of related party transactions to minimise tax

The Government will update legislation to close loopholes that allow multinational companies to use excessive related party payments to shift profits overseas and reduce the tax they pay in Australia.

Transfer pricing rules regulate the way companies set internal prices for the trade of goods and services amongst their different businesses across different countries.

The OECD has updated its guidance on how these transactions should be priced. The Government will amend legislation to ensure Australia's transfer pricing rules are consistent with OECD guidelines.

The new rules will make clearer how intellectual property and other intangibles can be priced and that it is the substance rather than the contractual form of a transaction that forms the basis of taxable activity.

Budget impact

This measure has an unquantifiable gain to revenue.

A new Tax Transparency Code

The Government is committed to encouraging greater tax transparency within the corporate sector, especially by multinationals. The Tax Transparency Code will encourage businesses with an annual turnover of at least $100 million to publish a range of tax information, including an insight into the Australian taxes they pay.

The Code is one of the most comprehensive tax transparency measures in the world. It will facilitate more informed public debate on whether businesses are paying their fair share of tax through enhanced public disclosures targeted at a reasonable user. This transparency initiative will help build community confidence in tax-compliant Australian businesses and put pressure on businesses to be more transparent.

The Government encourages all companies to adopt the Code from the 2016 financial year and onwards.

Budget impact

This measure has no impact on revenue.

A new regime for disclosure of potential tax avoidance

The Government is determined to improve disclosure of taxpayer information to the ATO, and will develop new rules requiring tax and financial advisors to report potentially aggressive tax planning schemes. These rules will be consulted on and give the ATO an extra tool to combat the use of aggressive tax schemes and limit the opportunity for such schemes to be marketed.

Budget impact

This measure has no impact on revenue.

Increased penalties

The Government will increase the penalties for breach of tax reporting obligations for companies with global revenue of $1 billion or more.

The Government will increase the maximum penalty for failing to lodge on time tax returns, business activity statements, country-by-country reports and similar tax documents – from $4,500 to $450,000. This will significantly discourage breaches of tax reporting obligations.

The Government will also double the penalties for making false and misleading statements to the ATO in relation to various obligations under the tax law.

These new penalties will send a clear message that the Government will not tolerate inaccurate or delayed tax reporting and administration by large businesses.

Budget impact

This measure has an unquantifiable gain to revenue.

New protections for tax whistleblowers

The Government will introduce, commencing 1 July 2018, new whistleblower protections for people who disclose information about tax misconduct to the ATO. The new arrangements will protect tax whistleblowers against identity disclosure, victimisation and civil and criminal action for disclosing information. These protections will encourage whistleblowers to come forward and will support compliance with our tax laws.

Budget impact

This measure has an unquantifiable gain to revenue.