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Increase in CGT discount for affordable housing investments

The government has announced that there will be an increase to CGT discount from 50% and 60% for resident individuals who invest in qualifying affordable housing.

Affordable housing investments

The existing 50 % CGT discount can be accessed by resident individuals and trusts who hold assets for longer than 12 months. There is currently no added incentive for investors to invest in affordable housing.

In order, for resident individuals to qualify for the increased discount, the following conditions must be met:

- The housing must be provided to low to moderate income tenants
- Rent must be charged at a discount below the private rental market
- The affordable housing must be managed through a registered community housing provider
- The investment must be held for a minimum of three years

The 60% CGT discount will also be available to resident individuals investing in affordable housing via managed investment trusts.

Foreign Residents & CGT

Through the extension of a number of pre-existing measures, the Government is tightening foreign residents' ability to access Capital Gains Tax (CGT) concessions.

Withholding payments

As a results of measures in the 2013 Budget, a 10% non-final withholding tax on payments made to foreign residents that dispose of certain taxable Australian property was introduced. This regime applied to all contracts entered into on or after 1 July 2016.

Specifically excluded from the 'taxable Australian property' umbrella were residential real property transactions with a market value under $2 million. This ensured that the vast majority of residential house sales were unaffected by this measure.

What has changed?

Under the proposed Budget measures, the applicable CGT withholding rate for foreign tax residents will increase to 12.5% from 1 July 2017.

Main residence exemption

In another, hit to foreign residents, the Government will deny foreign and temporary tax residents access to the CGT main residence exemption from 7:30pm (AEST) on 9 May 2017. Existing properties held prior to this date will be grandfathered under the existing provisions until 30 June 2019.

It is expected that these rules will result in the deemed disposal and reacquisition of foreign owned properties on 1 July 2019 at market value. Where foreign ownership of property is maintained after this date, we suspect market valuations will be required to exempt (to some extent) any gain accrued to this date.

Integrity rules

To extend their reach on foreign owned property even further, the Government has proposed to apply the principal asset test for investors in Australian companies on an associate inclusive basis from 7:30pm (AEST) on 9 May 2017. For foreign tax residents with indirect interests in Australian real property, this measure will circumvent the ability to avoid a CGT liability by disaggregating indirect interests in Australian real property.

Practically, this means that the ATO will now be provided with the ability to look through interposed entities ultimately owned by foreign residents, and levy CGT on the disposal of property by an entity whole underlying value is principally derived from Australian real property.

Changes in foreign investment – Reducing administration costs and restricting foreign ownership

The Government has announced a number of changes to be administrated by the foreign investment review board.

These changes include a reduction in red tape to simplify Australia's foreign investment framework and new restrictions for issuing New Dwelling Exemption Certificates.

Restricting foreign ownership in new property developments

Property developers can apply for a certificate to sell new dwellings in a development to foreign persons (New Dwelling Exemption Certificate). These act as pre-approval, allowing the developer to sell new dwellings to new persons without each foreign purchaser seeking their own foreign investment approval.

From 7:30pm on 9 May 2017, approval of New Dwelling Exemption Certificates will be subject to a condition that the developer may only sell a maximum of 50% of the total dwelling in the development to foreign persons.

Reducing red tape

From 1 July 2017, the Government will introduce a number of changes in an attempt to clarify and simplify. Australia's foreign investment framework. These changes were developed following public consultation on options improve the foreign investment framework.

The announced reforms will include:

- Narrowing the meaning of sensitive land so that 'low sensitivity' developed commercial property subject to the lower $55 million threshold will not be captured within the meaning of sensitive land
- Improving treatment of residential applications by allowing developers to re-sell off-the-plan dwellings that failed to settle to foreign persons
- Consolidating multi-application approvals for low risk transactions into a single application, for example, introducing a single exemption certificate for foreign individuals considering a number of residential properties with the intention to only purchase one
- Standardising the fee framework for acquiring interests in agricultural land, commercial land and business securities
- Legislating fee relief arrangements, including introducing additional low value fee rules
- Introducing a new exemption certificate that applies to low risk foreign investors
- Clarifying the treatment of developed solar and wind farms

- Restoring previous arrangements where companies with significant foreign custodian holdings (that is, legal rather than equitable interest holders) are not subject to notification requirements

One last chance to top up super

Individuals aged 65 and over who have owned their principal place of residence for more than 10 years will have an opportunity to make a Non-Concessional Contribution of up to $300,000 from the proceeds of selling their home, should they chose to downsize and relocate.

Individuals who choose to make a Non-Concessional Contribution from the proceeds of selling their home will be exempt from the age test, the work test, and the $1.6 million balance test.

Impact on the Transfer Balance Cap

If an individual has not accessed all of their Transfer Balance Cap (currently $1.6 million) we assume they will be able to immediately commence an income stream (pension) on the Non-Concessional Contribution and:

- The earnings in pension phase will continue to be a tax exempt
- The payment will be tax-free in the individual's personal hands

However, if an individual has already used 100% of their Transfer Balance Cap, the Non-Concessional Contribution will add to the individual's accumulation account, and the earnings will be taxed at normal superannuation rates of up to 15%.

Housing affordability measures – Access to super for first home deposit

Individuals will be able to withdraw certain voluntary contributions made into superannuation to top up their deposit on their first home.

This measure encourages voluntary contributions by providing a tax benefit and may be appealing for young people who would not otherwise make additional contributions into super because it is inaccessible until retirement.

Tax Concessions

Individuals who are looking to purchase their first home will be able to access specific voluntary contributions made into superannuation after 1 July 2017. The voluntary contributions, and an amount of associated deemed earnings, will be accessible by individuals from 1 July 2018.

Limits apply to the amount that individuals can contribute under this measure to $15,000 per year and $30,000 in total. The existing contribution caps must be adhered to in conjunction with this initiative.

Withdrawals under this measure will be taxed at the individual's marginal tax rate less a 30% tax offset.

Removal of Expensive Deductions for rental properties

As part of the Government's agenda to facilitate affordable housing, the Budget proposes removal of a number of deductions in relation to investment properties, which have allegedly been exploited.

Travel expenses for residential rental property

From 1 July 2017, the Government will disallow deductions for travel expenses relating to, maintaining, or collecting rent for a residential rental property.

The Budget papers describe this as an integrity measure to address concerns that many concerns that many taxpayers have been claiming travel deductions without correctly apportioning costs, or have claimed travel costs that were for private travel purposes. This measure will not prevent investors from engaging third parties such as real estate agents for property management services. These expenses will remain deductible. The Treasurer's related press release describes this as a deductible expense that is seen as being 'abused'.

The Government also makes the point that inspection costs undertaken by third parties will be permissible, meaning that inspection costs are seen as legitimate, but only if genuinely incurred for pure inspection purposes.

Travel expense deductions will still be permitted for non-residential investment property, so presumably investments in more 'active' property assets such business facilities, farming, factories and so on should be claimable.

Restriction on depreciation deductions

From 1 July 2017, the Government will also limit 'plant and equipment" depreciation deductions to outlays actually incurred by investors in residential real estate properties.

The Budget papers state that these plant and equipment items are usually mechanical fixtures or those which can be 'easily' removed from a property such as dishwashers and ceiling fans. The associated Treasurer's press release also includes carpet as an item that will be affected by this measure.

This is described an integrity measure to address concerns that some 'plant and equipment' items are being depreciated by successive investors in excess of their actual value.

Investors who purchase plant and equipment for their residential investment property after 9 May 2017 will be able to claim a deduction over the effective life of the asset.

However, subsequent owners of a property will be unable to claim deductions for plant and equipment purchased by a previous owner of that property.

The net result of this measure is that only the person who actually pays fort the asset will be able to claim depreciation deductions for it. Subsequent owners will not be able to inherit the written-down value of any such assets, nor presumably will taxpayers be entitled to a depreciation deduction for assets for which they have not provided any consideration.

Once again, this measure only applies to residential property, and not other forms of business related property investment.

CGT Implications

However, there will still be some tax benefit with these asset items, but investors will need to be patient to benefit from them. Acquisitions of existing plant and equipment items will be reflected in the cost base for CGT purposes for subsequent investors. Therefore, the cost of these items will have some tax benefit when the property is ultimately disposed of. However, there will not be an immediate tax benefit claimed each year until the end of the assets' effective life.

Grandfathering

These changes will apply on a prospective basis, with existing investments grandfathered.

Plant and equipment forming part of residential investment properties as of 9 May 2017 (including contracts already entered into 7:30pm on 9 May 2017) will continues to give rise to deductions for depreciation until either the investor no longer owns the asset, or the asset reaches the end of it effective life.

BANKS

Major bank levy and more regulation of the banking system

A new levy of 0.06% will be imposed on major banks from 1 July 2017. This represents a major new tax on our financial institutions.

It will apply to all Authorised Deposit-taking Institutions (ADIs) with licensed entity liabilities of at least $100 billion, and will be calculated quarterly. The levy will not apply to liabilities such as additional Tier 1 capital and deposits of individuals, businesses, and other entities protected by the Financial Claims Scheme. It will apply to items such as corporate bonds, commercial paper, certificates of deposit, and Tier 2 capital instruments.

This measure states that it 'represents a fair additional contribution from our major banks' and will 'provide a more level playing field for smaller banks and non-bank competitors'.

A residential mortgage pricing inquiry will be conducted by the Australian Competition and Consumer Commission until 30 June 2018, to facilitate the introduction of the levy. Relevant ADIs will be required to explain any proposed changed to residential mortgage pricing including changes to fees, charges, or interest rates by those ADIs.

Other measure were announced to provide a more accountable and competitive banking system including:

- Requiring banking executives go be registered with APRA, strengthening APRA's powers to remove and disqualify senior executives, new penalty provisions and deferral of remuneration for senior executives. Funding will be provided to APRA to introduce and administer the new legislation.
- Additional funding to APRA to undertake new regulatory activities to support a stable, efficient and competitive financial system, including responding to new financial system activities and products
- A new one-stop shop for dispute resolution will be introduced from 1 July 2018 being the Australian Financial Complaints Authority (APRA). It will provide financial services

consumers, small businesses and retail investors with access to a free, fast. And binding dispute resolution service. Australian Financial Services Licensees will be required to be members of APRA. It will replace the Financial Ombudsman Service, the credit and Investments Ombudsman, and the Superannuation Complaints Tribunal (which will be wound down and now longer operating from 1 July 2020). Funding will be provided to the Australian Securities and Investments Commission (ASIC) to ensure AFCA delivers an effective dispute resolution service.

- Additional funding to ASIC to broaden ASICs financial literacy program.

BUSINESS

New residential premises – Purchases to pay CGT

The Government has announced that from 1 July 2018, purchasers of newly constructed residential properties or new subdivisions are required to remit the GST payable directly to the ATO at settlement.

The Government has determined that developers are failing to remit GST on the sale of new residential premises. This is despite the developers claiming input tax credits for their construction costs.

The Government considers that most purchasers obtain professional conveying services and therefore the impact of this change on purchasers will be minimal. It is assumed GST will be remitted to the ATO in a similar manner to which transfer duty is provided to state revenue authorities.

Bitcoin and other digital currencies will officially be money

The Government proposes to fundamentally change the characterisation of digital currencies for GST purposes.

Historically, the ATO has treated the supply of bitcoin and other digital currency have been 'double taxed' on purchases. This treatment has resulted in a number of practical and competitive issues.

To address this issue, the Government proposes to make digital currencies a form of 'money' for GST purposes.

By making digital currencies a form of 'money', GST will only be imposed on the supply of goods and services being purchased and not on the exchange of the digital currency itself. This is in accordance with the policy intention of the GST law.

GST – Changes to treatment of precious metals

Acting on historical and ongoing concerns, the ATO has sought to improve the integrity of the GST system through technical changes to the GST Act to crack down on GST fraud in the precious metals industry.

This will be achieved through the following changes:

- Imposition of a reverse charge mechanism
- The amendment to the definition of second-hand goods

The changes to the GST law were initially announced on 31 March 2017 and confirmed in Tuesday's Budget. However, these changes will apply retrospectively from 1 April 2017.

A scheme – Reason for change

The scheme is a form of 'carousel fraud', which operated in the following manner:

- A GST non-registered seller would remove the 'hallmark' guaranteeing the fineness of the metal or add impurities to it
- The GST non-registered seller would then sell the metal without GST to a GST registered entity
- The GST registered buyer would subsequently claim an input tax credit under the second-hand goods provisions from the ATO on the basis that the metals were not 'precious metals' as they were not 'in an investment form'
- The metal was then refined and sold by the buyer as a GST-free supply to an unregistered seller and the loop would continue

This resulted in revenue lost by the Government through input tax credit claims with no GST being remitted on sales. There were also cases where taxable sales of scrap metal were being made with no GST being subsequently remitted to the ATO.

Reverse Charge

Under the proposed changes, where both the supplied and the recipient are registered (required to be registered) for GST, the purchaser will be responsible for reporting and paying the GST amount to the ATO.

The GST remitted under the reverse charging mechanism will then offset any input tax credits that the buyer could recover, thereby eliminating any GST benefit.

Second-hand goods – Definition

The definition 'second-hand goods' has been amended to clarify gold, silver or platinum 'not in investment form' is not a second-hand good. This will remove any input tax credit entitlement for acquirers of out of scope supplies of precious metals.

Higher instant asset write-off for small business extended for 12 months

Last year's Budget introduced a number of welcome Small Business Entities (SBEs) concessions including a more generous instant asset write-off for SBEs, and changes to the simplified depreciation regime with a view to improving cash flow for the small end of town. This concession raised instant write-off threshold from $1,000 to $20,000 with an end date penciled in for 30 June 2017.

The Government has indicated it will extend the SBE instant asset write-off concession on assets costing less than $20,000 by 12 months until 30 June 2018. This concessions extends to small business simplified depreciation pools to allow eligible taxpayers to write-off the pool balance where the total written down value is less than $20,000.

'Lock out' laws suspended

The legislation restricts an SBE from re-entering the simplified depreciation regime for five years where they have opted out. However, the Government has set aside these rules to allow universal access to the increased concessions for SBEs while they are available.

National innovation and science agenda

More than 16 months after the Government announced its revised scope for the review of the R&D Tax Incentive (3F report), as part of its National Innovation and Science Agenda, no changes to the R&D Tax Incentive were announced in the Budget.

New initiatives released in the Budget, as part of the agenda, include:

- $100 million of additional investment in the manufacturing sector, including a further $47.5 million for a new Advanced Manufacturing Growth Fund to support manufacturers in South Australia and Victoria
- Extension of the crowd-sourced equity funding (CSEF) to propriety companies to have an unlimited number of CSEF shareholders, while ensuring they are protected by higher governance and reporting obligations
- An enhanced regulatory sandbox offering Financial Technology (FinTech) companies the flexibility required to test and advance a wider range of products and services

New levy on employers of foreign workers

On the back of the announcement of the replacement of 457 visas, the Government has announced the introduction of a new levy on businesses with foreign workers on certain skilled visas, with a slightly lower levy applying to small business entities.

Levy to fund skilling Australians Fund

The Government has proposed the introduction of a new levy for business with foreign workers on certain skilled visas, with application from March 2018. The revenue raised from this measure will be applied to a new 'Skilling Australian Fund' to support the training and development of Australian workers.

Businesses with a turnover of less than $10 million per year will be required to pay:

- Upfront payment of $1,200 per visa per year for each employee on a Temporary Skill Shortage visa
- One-off payment of $5,000 for each employee being sponsored on a permanent Employer Nomination Scheme (subclass 186) visa, or a permanent Regional sponsored migration Scheme (subclass 187) visa.

This measure is estimated to have a revenue gain of $1.2 billion over 2018 to 2021.

Extending tax relief for merging superannuation funds

The Government will extend the current tax relief for merging superannuation funds, which was due to lapse on 30 June 2017, until 1 July 2020.

The Government first introduced tax relief for merging superannuation funds in December 2008. The relief enables superannuation funds to transfer capital and revenue losses to a new merged fund, and to defer taxation consequences on gains and losses from revenue and capital assets.

The extension of the relief will continue to ensure superannuation fund member balances are not reduced by tax when superannuation fund merge. This will ensure that income tax will not act as an impediment to mergers and will continue to facilitate industry consolidation.

HEALTH – Medicare guarantee fund

The Government has proposed the establishment of a Medicare Guarantee (MGF) as a special account to be used to cover costs of the Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS). The MGF will be funded by raising revenue from the Medicare levy (excluding amounts to fund the National Disability Insurance Scheme), with any balance to be funded by a portion of personal income tax receipts. The establishment of the special account will be effective form 1 July 2017.

The MGF's main objective is to guarantee the Government's commitment to the MBS and PBS into the future. The introduction of the MGF is to ensure that all Australians can be certain they will continue to have access to the essential healthcare services they need.

They forecasted annual contributions to the MGF will be updated at every Budget update to be in line with the forecast of the MBS and PBS expenditure over the estimates. The MGF will be used solely for funding for MBS and PBS.

Changes to the Medicare system

The Government is reintroducing the indexation of certain Medicare items, providing a fairer price for doctors. Along with this additional funding, the Government will target unusual billings and improve the consistency of administrative arrangements in the system.

Reintroducing indexation ahead of schedule

Last year the Government announced they would continue the pause of indexation for all Medicare Benefits Schedule (MBS) fees for a further two years.

Slightly earlier than expected, the Government has now confirmed an extra $1 billion will be allocated over four year as indexation is phased in for certain items on the MBS. This will include:

- Bulk-billing incentives for GPs from 1 July 2017
- Standard consultations by GPs and specialists attendances from 1 July 2019
- Specialist procedures and allied health services from 1 July 2019

In addition, for the first time since 2004, the Government will introduce indexation for certain diagnostic imaging items on the MBS including for mammography and radiology.

With the increase funding, the Government will also include changes to better target unusual business billings, improve compliance arrangements and enhance debt recovery practices.

INDIVIDUALS – Increase in the Medicare levy

As of 1 July 2019 the Government will increase the Medicare levy by 0.5% from 2.0% to 2.5% of taxable income to ensure the National Disability Insurance Scheme (NDIS) is fully funded. Not only will the Medicare levy be subject to this increase, but other taxes linked to the top personal tax rate, such as the fringe benefits rate, will also increase.

Increase in tax revenue to fund healthcare

As a result of the increase, it is estimated there will be an $8.2 billion gain in tax revenue over the forward estimates period. However, this is the net impact across all heads of revenue, not just the Medicare levy. With the increased revenue, the Government is committed to full funding its share of the costs of the NDIS. One-fifth of the revenue raised by Medicare levy will be directed to the NDIS savings fund. The remaining revenue raised from the Medicare levy will be credited to the soon to be established Medicare Guarantee Fund.

Relief for low income earner

Despite the increase in the Medicare levy, low-income earners will continue to receive relief from the Medicare levy through the low-income thresholds for singles, families, seniors and pensioners. The current exemptions from the Medicare levy will also remain in place.

Personal income tax – Medicare levy low-income thresholds

The government has announced the annual increase in the Medicare levy for low-income thresholds for singles, families, seniors, and pensioners.

The increase take account of movements in the Consumer Price Index (CPI) so that low-income taxpayers generally continue to be exempted from paying the Medicare levy.

The increases are outlined below.

TITLE	CURRENT	NEW
Singles	\$21,335	\$21,655
Family	\$36,001 plus \$3,306 per dependent child or student	\$36,541 plus \$3,356 per dependent child or student
Single – seniors and pensioners (eligible for SAPTO)	\$33,738	\$34,244
Family – senior and pensioners	\$46,966 plus \$3,306 per dependent child or student	\$47,670 plus \$3,356 per dependent child or student

Personal Taxation Measures

The Government has announced changes to personal taxation measures centred on accelerating Higher Education Loan Program (HELP) debt repayment, and increasing the availability of Higher Education Contribution Scheme (HECS) eligible courses as the main changes to education. Further personal taxation matters impacting individuals include tax exempt repayments to child sexual abuse survivors and changes to Family Tax Benefit Part A payments.

New HELP repayments thresholds and rates to be introduced

The Government has announced that it will widen the repayment thresholds in a bid to accelerate HELP debt repayment form 1 July 2018.

The current minimum repayment threshold for the 2017/18 year of \$55,874 with a repayment rate of 4% is set to decrease to \$42,000 and 1% respectively. Conversely, the maximum band will be increased from the 2017/18 year threshold of \$103,766 with a repayment rate of 8% to \$119,882 and a repayment rate of 10%.

Changes to maximum student contributions will also be introduced from 1 July 2018 to allow an incremental yearly increase in contribution levels of 1.8% each year, totaling a 7.5% increase by 2021.

HECS eligibility has also widened with support places now being offered to students in sub-bachelor courses. Courses with a focus on industry and a probable pathway into related bachelor programs will meet the requirements and students will be excluded from the scheme if they have completed a prior higher education program.

Tax-free payments to child sexual abuse survivors

As part of its Commonwealth Redress Scheme, for survivors of institutional child sexual abuse, the Government announced that any redress payments under the scheme received by people who were sexually abused as children in Commonwealth institutions will be exempt from income tax.

Family Tax Benefit (FTB) Part A changes

The Government has ruled out a proposed rate increase to Family Tax Benefit Part A, however, has made changes to the dollar income test taper rate in an effort to ensure that higher income families are not advantaged. The changes to the test taper rate come in the form come in the form of inconsistent 30 cents in the dollar income test taper rate for families exceeding the Higher Income Free Area of household income – currently set at $94,316.

Additionally, further changes have been introduced for families with children who do not meet the Government's immunization requirements having their supplement payments reduced by $28 per fortnight.

ANTI –AVOIDANCE – Superannuation Funds Anti-Avoidance

The Budget measures around Limited Recourse Arrangements (LRBA) and non-arm's length income are aimed at improving and maintaining the integrity of the superannuation changes that were introduced in the 2016 Federal Budget. These measures will likely limit the use of LRBA in Self-Managed Superannuation Finds (SMSFs).

LRBAs and the 2016 changes

From 1 July 2017 these proposals are intended to ensure that superannuants cannot utilize LRBAs to avoid the limitations imposed by the 2016 changes. Those superannuants who have LRBAs inside their SMSF will need to add any outstanding loan balance. The Total Superannuation Balance is the threshold that determines whether an individual can make further non-concessional contributions to their fund.

As an example a SMSF member who has a member balance of $1.1 million and an outstanding LRBA loan balance of $500,000 will have a total superannuation balance of $1.6 million, and will therefore not be able to make further non-concessional contributions.

In addition, LRBA loan repayments will be 'counted' towards a member's Transfer Balance Account (where the superannuant has a pension account). Where loans are repaid from a member's accumulation member account, the repayment will be recorded as a credit against the member's Transfer Balance Account.

Non-Arm's Length Income

From 1 July 2018 these proposals are intended to ensure all transactions undertaken with an entity related to the superannuation fund or its members, are undertaken on commercial or arm's length terms. The proposals require that 'normal commercial expenses' are considered as part of the assessment process, for determining whether a related party transaction is commercial.

Where a transaction is determined to not be undertaken on an arm's length basis, any income arising from the arrangement (say rental income from property) is assessed as non-arm's length income, and taxed at the top marginal tax rate in the superannuation fund.

Foreign hybrid mismatches

In a further attack on the 'big banks', tax advantages from hybrid mismatches are being further restricted. The Government is targeting mismatched hybrid instruments issued by the offshore units of Australian banks and financial institutions. This foils the potential manipulation of Australia's debt/equity rules, where instruments issued by an offshore unit pay interest, but will be treated as 'Additional Tier 1' capital under the banking regulatory requirements.

In the 2016/17 Budget, the Government committed to the OECD measure to neutralise hybrid mismatches. These measures aimed to deny benefits arising from taxpayers claiming a tax deduction in one jurisdiction where the amount is not income another jurisdiction, or claiming a deduction in two tax jurisdictions.

The current amendment clarifies the position adopted by the ATO. In earlier private rulings issues by the ATO to specific taxpayers, the ATO confirmed these securities provided interest returns, meaning the distribution did not need to be franked for tax purposes. This mismatch arises as these securities should have paid a franked distribution if they were issued through the Australian based parent.

Under the changes, the returns on these securities will give rise to franking debits where the capital is not exclusively used in the foreign branch. These rules will apply to returns on investments paid after 1 January 2018, with some transitional arrangements for instruments currently on foot.

Extension of the Taxable Payments Reporting System

In an effort to strike a further blow to the cash economy, the Government has extended the Taxable Payments Reporting System (TPRS) to the cleaning and courier industries. The measures will be introduced from 1 July 2018.

The TPRS currently covers the building and construction industry only. Businesses are in the building and construction industry are required to record and report payments made to each separate contractor throughout the year.

The system acts as a tax integrity measure to ensure payments made to contractors are reported to the ATO in a similar manner to salary and wages payments to employees. This greatly increases the ATO's ability to use data matching to track payments being received by contractors in the industry.

The Budget measure widens the reporting regime to cover the predominately contractor-based cleaning and courier industries. This extension is off the back of the reported improvement to contractor compliance that resulted from the introduction of the TPRS in the building and construction industries. The first report under extended regime will be due for lodgment in August 2019.

Restrictions to Small Business CGT Concessions

The Federal Government will tighten the accessibility to the small business Capital Gains Tax (CGT) concessions by limiting the assets eligible for the concessions. It has been proposed that eligibility for the concessions will be denied for assets unrelated to small business from 1 July 2017.

Under the current law, small business taxpayers can access certain concessions which provide them with various relief on capital gains derived on CGT assets that are used in their business. The concessions are in place to assist small business taxpayers in re-investing and to allow these small business to further grow. Currently, is it the view that some taxpayers are accessing these concessions for assets which are not related to the taxpayer's small business. Further, is it believed that some taxpayers are 'arranging affairs so that their ownership interests in larger businesses do not count towards the tests for determining eligibility for the concessions.

The Federal Government has proposed that access to the small business CGT concessions be tightened from 1 July 2017. This is an integrity measure, and will claim to stop taxpayer's manipulating their affairs to allow access to the concessions in inappropriate circumstances.

Toughening the Multi-National Anti-Avoidance Law

The definition of foreign entities who the multi-national anti-avoidance law (MAAL) regime applies has been broadened to include the use of foreign trusts and partnerships in corporate structure. The imposition of a more specific definition will afford clarity to taxpayers and tax agents during their self-assessment of whether the MAAL regime is applicable to their existing party transactions.

From exhaustive to inclusive definitions

In order to fall under the umbrella of the MAAL regime, an entity or individual is currently defined as a 'foreign entity' that is a significant global entity or 'a person'.

As part of the early engagement and risk assessment process of the MAAL, taxpayers or their corresponding tax agents are required to carry out a self-assessment of the applicability of the MAAL to their respective related party transactions. Under the current law, the applicability of the MAAL was restricted to the broad definition of 'foreign entity' and 'a person'.

Under the new proposed measure, MAAL will also apply to the following entities:

- Corporate structures that involve the interposition of partnerships that have any foreign resident partners
- Trusts that have any foreign residents trustees
- Foreign trusts that temporarily have their central management and control in Australia

The amendments however apply retrospectively from 1 January 2016.

The amendments to the definitions strengthen the implementation of the original policy intent behind the MAAL which is to combat the erosion of the Australian tax base by multi-national entities using artificial and complex schemes to avoid the attribution of profits to a permanent establishment in Australia.

The proposed measure also reduces the likelihood of potential loopholes arising from any ambiguity in definitions when assessing and characterising an entity or an individual as a 'foreign entity' or 'a person'.

Additional Funding to toughen up the ATO

Serious and organized crime taskforce

As part of the Government's tax integrity measures, $28.2 million will be provided to the ATO in order to target serious and organized crime within the tax system. This extends an existing measure by a further four years to 30 June 2021.

The Government estimates that organized crime costs Australia between $10 billion and $15 billion annually. The additional funding is intended to ensure that the ATO works closely with federal, state, and territory agencies to combat serious and organised crime.

Black economy taskforce

The Government will also provide $32 million for one year of additional funding for ATO audit and compliance programs to better target black economy risks.

This measure provides further funding to ATO programs that focus on businesses with a turnover between $2 million and $15 million that have disengaged from the tax system. These programs are directed at changing black economy and related behaviours such as non-lodgement, omission of income, and non-payment of employer obligations.

In recent years, the ATO has targeted businesses that are not declaring cash revenues with a focus on business in high risk industries such as cafes and restaurants, building trades, beauty and nail specialists, and cleaners.