CPA Australia Podcast

Episode 63 - Transcript

Intro: Hello and welcome to the CPA Australia podcast, your weekly source for business, leadership, and public practice accounting information.

Jan McCallum: Welcome to CPA Australia's podcast series. I'm Jan McCallum and I'm editor of INTHEBLACK. I'd like to introduce CPA Australia Head of Policy, Paul Drum to discuss the 2018 federal budget. Hi, Paul.

Paul Drum: Hey, Jan. Good to join you.

Jan McCallum: Paul, CPA Australia says, it's the budget proposals that haven't grabbed the headlines that will attract the attention of the accounting and tax profession. What are some of those proposals?

Paul Drum: Well, that's right, Jan. I mean, if you read the daily tabloids, you'd think that this budget was all about the centrepiece that's being described, the centrepiece is the personal tax cuts.

But certainly there are a raft of other measures, significant measures that are going to impact business, accounting, and tax advisory services, their clients on income tax, superannuation, and there was even one thrown in there on GST, and certainly superannuation as well.

So you might recall, it was only a couple of budgets ago that we had quite significant superannuation changes announced. This budget doesn't have as many superannuation changes, but there are some that are quite significant, some that are positive, and some that our members will have different views on, some will not agree with. So I want to go through and unpack some of them with you today.

Jan McCallum: Well, what does this budget mean for business?

Paul Drum: Well, overall, I think we really need to wait and see what it means for business, because the question at this stage is, can the government get its personal income tax, this new personal income tax glide path, if you like, a seven year glide path for personal income tax reductions, similar to what they did with the business enterprise tax plan for corporate taxes, which the government was unable to get across the line yes, although they haven't given up on it, it's still part of this budget.

So the question is, are they going to be able to get those measure through? The government has said that they would decouple them and push through the 2018 personal income tax reforms, and the AOP if steadfast we said unless they're decoupled, there would be no income tax cuts for the 2018 year.

So, to call what it means for business in that regard, it's a little bit early, and certainly a lot of the things that have been announced Jan in this budget, don't have a hard start date from 2018, you know 1 July 2018, a lot of them are 2109. Quite a lot of them are going to require consultation with the accounting profession, with organisations like CPA Australia, and particularly, a lot of them are what I would call integrity measures, where they're actually tightening the screws on some areas of the law that impact from large business to small business, to the accounting professional partnerships, and even celebrities.

So there's quite a raft of measures there that are going to impact tax payers one way or another.

Jan McCallum: What does this budget deliver for small and medium sized businesses?

Paul Drum: Well probably the standard items for small medium business. Again, I would start with the personal income tax cuts for unincorporated businesses should they get over the line. But, don't hold your breath Jan, we'll have to wait and see.

The other measure that everyone is jumped on which ... CPA Australia has pushed for a number of years now to have this as a permanent feature of the Tax laws which of course is the $20,000 in senescent write off for eligible businesses. So it's been extended another year, so that's been very favourably received in the past, that's why we pushed for it to become a permanent feature.

So, small businesses will get another year of benefit of that. But you know, we don't want to have amplify the benefit of that. So it's no silver bullet to the challenges of small businesses, but certainly it is something additional and has been beneficial in the past, so I'm sure that they will be welcoming that.

But not all the measures for small business are positive Jan. For example, there's quite a lot of detail about what I call Integrity measures, and in particular, tougher rules about phoenixing operations. It's quite a bit in the budget papers to clamp down harder on phoenix activities for businesses-

Jan McCallum: But isn't that good for honest business owners?

Paul Drum: Yes certainly, honest businesses and taxpayers in general would welcome reforms to combat illegal phoenixing, but the question is, what will those rules look like, they're meant to come in from 2019, and we'll be involved in the design and implementation of them over the next 12 months.

But certainly the extent of these measures such as extending the direct to penalty regime to JST, luxury tax, wine equalisation tax, making directors personally liable for a company's debts. These are a big penalties and, we need to ensure that the balance is there that ... You know, companies do go bankrupt, and directors do come back and start other businesses. So we need to ensure that legitimate business failures aren't accidentally drawn into the vortex of a set of rules that are very rigid and aimed fairly and squarely at combating illegal phoenixing activities rather than a business that's gone bankrupt and then the taxpayer's trying to start another business.

So there are some design features around that, that we're going to have to monitor very closely.

Jan McCallum: What does CPA Australia see as some of the most effective budget measures?

Paul Drum: Well in the context of superannuation, there's a number of measures. And one is that, there's a proposed change to increase the possible number of self managed super fund members from four to six. There are caps proposed, announced on passive fees for small balance super funds, so there will be a limit to what funds can charge as passive fees on super funds, and the banning of super fund exit fees.

So when you want to change your super fund, quite often there is an exit fee. The government is announcing it's going to ban those changes, and I think that will streamline a whole lot of multiple super funds that individuals may have accumulated over the years that they didn't want to amalgamate and consolidate, because there's a fee of exiting. So that's a good initiative.

Certainly, there's also an announcement to change the work test for those who are over 65, up to 74 years of age, who want to make voluntary contributions to superannuation, it was based on a work test, although the government has announced that they're going to eliminate the work test and people in that age bracket can now voluntarily make further contributions to super.

There're all positive things I think in the superannuation space. Moderate changes in some ways, but I think it's quite important to have some of these tidy up matters and certainly the over insurance in superannuation funds has been a major issue. The Productivity Commission and others have been looking at it for some time, and the government's decided to respond which is a good thing.

Jan McCallum: And the government has relaxed the rules on audits of self managed super funds. How will the CPA membership view that?

Paul Drum: Well Jan, that's another biggie, because there'll be different views on this. So, to your point, the government has announced that for SMSF's order, or SMSFs that have a good compliance record, they will only have to have an audit every third year. Now, again, this is subject to consultation, but the question is, what does it mean? Does it mean in the third year, you only get the third year audited, or does it mean that every third year you have your accounts audited for the three years?

Again, we'll have to wait and see the detail on this. But, if you weigh up the different stakeholders in this, there will be super fund trustees who say this is a great thing, that they don't actually have to have an annual audit of their SMSF, but certainly we will have many members in the SMSF audits space. Some of them will have businesses based exclusively on SMSF audits, so they would not be welcoming this measure if it meant for example in the worst possible scenario, it meant that their revenues, their professional services fees, their audit fees are going to be cut by two thirds by a measure such as this.

So there's some things to work through here, and again it's something that the government has said will be subject to consultation and we'll be involved in that.

Jan McCallum: Why does this budget have so many initiatives for older Australians such as measures to keep them in the workforce and their homes rather than aged care?

Paul Drum: Well you know, yes it's fair to say that this budget do have measures for older Australians, and I think that ... I don't know if it's exclusive to this budget though Jan. I mean, there are some specific ones here, but I think this is part of a pattern. And, we've had a number of intergenerational reports now going back over some years, going right back to the Howard and Costello year, where they produced the first Intergenerational Report talking about ageing Australians. And so it's no secret and not a surprise that Australia has an ageing population and people are living longer.

So there are issues about workforce, keeping people in the workforce, because people live longer, they don't necessarily just want to retire and do nothing. There's issues about worker participation. So there's a whole lot of benefits from keeping people in the workforce, those who want to stay, who choose to stay in the workforce longer.

There's also, a whole lot of benefits outside to the budget bottom line, over and above natural love and affection of all Australians by the government, to the budget bottom line that long term, it's more economical if you can keep people out of aged care and hospitals and keep them home, be looking after themselves.

So, these measures are all sensible in that context I think, and you know if you ask ... I don't know how you feel about it, but I'm certainly not rushing off to an aged care facility any time soon, it's not something I look forward to, I'd be looking to stay home as long as I possibly could.

So, I think it's very encouraging and if we can ... We're also in favour of this because if we can have a fitter, older society, that's a great thing.

Jan McCallum: You've mentioned this is a budget that's garnered a lot of focus on the income tax cuts. Do you see any obstacles to the government getting these tax cuts through parliament?

Paul Drum: Well yes. It's interesting that the opposition have already come out and said that they would not support tax cuts of ... The seven year package of tax cuts as has been announced for a variety of reasons, but certainly, one of the reasons is that, they think that you can't project what's happening in the economy that far out, and so to sign off, to give the Nike swish if you like, to tax cuts that effectively are going to be valued at the tune of about 140 billion dollars over the period, they just think that's reckless and irresponsible.

The AOP have said that, they will sign off on the 2018 proposed tax cuts so that ... The package needs to be decoupled in their view. So I guess we're waiting with bated breath to see whether the government will change its mind and decouple the package so that it at least lets the 2018 changes, personal tax cuts through.

At this stage ScoMo and co are sticking to their guns and saying no, it's a packaged approach and we're not decoupling it, so we'll have to wait and see.

So Jan, don't bank your personal income tax cuts yet should they apply to you, and they're very moderate in year one and don't apply to that many people.

Jan McCallum: If we move to taxation, the Tax Office is getting more money to investigate individuals and tax agents. That seems to suggest there's a problem with tax agents. What's this about?

Paul Drum: Well this is another interesting one and again, something that we've been on the public record on and indeed the tax office, the commission has been on the public record on over the last 12, 18 months, is work related expense abuse.

This extra money to investigate individuals and tax agent at a guess, we would say, as an educated guess is going to be focusing in on work related expense abuse. The commissioner's been on the public record as I said, the Senate committees of inquiry and Senate estimates that type of thing, saying that, there is a problem and in fact that work related expense abuse in dollar terms, in tax dollar terms of ... Tax erosion if you like, is actually larger than the multinational tax avoidance, in real dollar terms.

So, he's saying there's a major problem here, it's not just self-preparers, but it's also agent prepared returns. So from our dialogue with them, expect to see some more on this, we know that the ATO's doing tax gap analysis, and we know that both individual self-preparers and tax agents are going to be under tighter scrutiny, and that's also reflected in the ATOs media releases and commentary as we prepare for tax time this year even. So, we'll just wait and see, but that's what it's about.

Jan McCallum: The Treasurer also made comments about the Black economy and that seems to be an area that the government's really focused on, on recent months. What's that all about?

Paul Drum: Well Jan, it's only last year that Michael Andrew chaired a Black Economy task force and CPA Australia was involved in that. We made submissions, we met with Michael, we even had him right here in the studio, he did a podcast for us on the Black Economy task force.

He released an interim report and a final report went to government late last year. Now on budget night, that final report was released, some 376 pages long. So, at this point I haven't been through all of his recommendations, but not only was the report released, the government's response has also been released. And importantly, that includes a number of initiatives to which you're referring to that were announced.

So, for example, it was announced that they'll be a new $10,000 limit on cash payments across the economy, where payments are made for goods and services in businesses to reduce money laundering and tax evasion. That's a new measure. There was an announcement that employers and contractors who do not meet PAYG withholding obligations, would be denied tax deductions for those payments, another new measure. And certainly they've extended the TPRS scheme that currently applies to cleaners and others, your listeners will recall. It's now been extended to security and investigation services, road, freight transport and computer design and related services.

These are industries that they're saying are high risk and they're now going to have a new tax payment reportable obligation. So all of that gives these tax payers extra obligations, but it also translates, so that means that tax advisors and accountants and tax agents will need to be across this to make sure that their clients when these missions come in, are properly explained to them and that they are compliant from the get go.

Now a lot of these measures too, are not a 2018 start date, so you need to check in respect of each particular one. But because again, a lot of these measures are going to be consulted on over the next little while, over the next 12 months so that they can actually design them properly.

For example, $10,000 cash payment limit is a very interesting one about how you would actually design that. Doesn't include for example, gambling activities. If you're gambling, and you're gambling at amounts greater than $10,000, have you bought ... You mightn't have bought a good but is it that provision of a gambling service, or is it just betting, is it a separate thing? So some of these design issues are going to be quite interesting.

Jan McCallum: We often hear that these new measures impose an unfair burden on business. Do you think that might be a criticism from this budget, which does have a lot of tax integrity measures?

Paul Drum: Well I think that gets down to the design features and the consultation process. I mean it's a fair question to raise, but, of course I think it's a travelling companion of integrity measures that there are going to be compliance burdens. The real challenge is to fine tune them and hone them so that they're honing on the actual problem and there's not a broad brush approach.

I'm not sure how we can get around that, but as a general observation, I think if you're tightening down, batten down the hatches, tightening the screws on revenue leakage and abuse of the laws, invariably there is going to be higher compliance obligation.

It's not desirable, the honest taxpayers to actually have to do extra work for no extra benefit. But, again, we need to try and minimise that for the good taxpayers and ensure that those that aren't doing the right thing are actually caught.

Jan McCallum: Paul Drum, we recently wrote an article in INTHEBLACK and we produced some video on Everett assignments, and we had a really good response so that. People found it very interesting. Now there's been an announcement in the budget, what's that about?

Paul Drum: Well yes Jan, the world's moved on since we did that INTHEBLACK article, and, as we spoke at the time, Everett assignments saw professional partnerships as assignment of a future right to income has been under the focus by the ATO since December last year. And certainly we've been involved in consultation with them on identifying problems, getting to understand what's permissible and what's not, with a view to getting a guidance note out by the end of this financial year.

Now the breaking news in the budget was that the government announced that it was going to propose a clampdown on professional partnerships or Everette assignments where there has been an assignment to the right to future income, that the capital gains tax small business concessions won't apply in those scenarios.

So I guess last night for the first time ever, we got to the nub of what was keeping the tax office awake on the professional partnership alienation or agents, and that was that, there was a misuse of the CGT concessions.

I guess it goes back when we actually did the other video, we talked about the fact that Mr and Mrs Everett case went through the courts long before the capital gains tax regime even started. So the courts and the Parliament could never even have contemplated how an Everette assignment if you like, would interact with the CGT rules because the CGT rules weren't even written.

Breaking, news from last night was that the CGT rules would not apply in those circumstances. I think that's a misuse of CGT. So again, that will require some legislative drafting, and we'll be involved in that.

Jan McCallum: There was also an announcement on how sports stars and actors use their images, and how they treat the income that they make from making appearances for example, and how they get paid for the use of their image. Why did the tax office seem to take issue with what these sports stars and actors are doing?

Paul Drum: Well that's another fascinating one Jan, and it's good to see you've been reading your budget papers closely. You know, celebrities if you like, celebrities, sports stars, TV personalities, quite a lot of them have arrangements and have had arrangements for many years where, they assign the right to use their image to another entity, typically a company or a trust, and then the company or the trust derives the income from the use of that image. And then that enables tax planning and tax structuring, being able to minimise your income, basically by income alienation from the individual, and certainly enabling that to be income suite say perhaps between a spouse or children or both.

So, this is another integrity measure, and celebrities, sports people and others who have been doing this alienation via fame an image licencing through an enterprise entity, will no longer be I would do so.

Jan McCallum: Is that really fair? For example, a footballer earns income from playing football and if they earn extra income from the use of their image, as a net unrelated to their work a footballer?

Paul Drum: Well it's not so much whether it's related to their primary occupation, the fact the fact of the matter is that, they've derived the income. So it's not something that you can alienate to another entity. So they're just saying, yes you can derive the income, you can earn it, you can profit from the use of your frame and image, but you can't assign it to another entity and then stream that income to somebody else.

So, most Australian would say that's a good thing. We can't do it, it is something that ... It's a bit of a quirk I think in the law, certainly I think there's going to be quite a lot of sports people and celebrities who will disagree with this, but most Australians can't do this, and I think that it's something that, even though there have been agreements between the ATO and certain bodies over the years about percentages of amounts that you can assign, the government said, no we don't want you to do that at all, so it's come to an end.

Jan McCallum: Paul Drum, do you think there were any missed opportunities in this budget?

Paul Drum: Well certainly there's always things that governments could do and don't do Jan. For example, at one extreme you might say holistic tax reform, tax white paper, but let's just pack that for the moment, because we're never expecting that. But certainly one moderate initiative that we think would be beneficial is something that CPA Australia has been lobbying for some time about, is, to bring in an incentive for Australians to save outside superannuation.

So for example, the Henry report, back all those years ago, talked about an income tax savings discount on savings earned or derived outside the super regime. And so for example, he was talking about an income tax savings discount on income that was from term deposits, from rents, from rental properties, maybe even dividends, but we have a dividend invitation system at the moment.

But, the gist of it was, of the Henry recommendation was that, if you derived income from rental or from term deposits, interest bearing deposits, that because you were saving and want to encourage saver and Australia is typically not great savers, you would get a 40% discount on your tax rate. So you'd figure out what your marginal tax rate was on those savings, but you get 40% off that to encourage savings.

It's a big issue, savings. I know that we have a very robust superannuation compulsory savings' regime, but our issue I guess, and feedback from members is what's the incentive for Australians, for taxpayers to save outside of superannuation, because that money is locked up until you retire.

We thought that's a good initiative, it would have some other positive benefits to the economy rather than just savings, savings leads to investment, it leads to enabling people to maybe have more money saved up for that housing deposit, goes into housing affordability. And certainly taxing rents at a lower rate also would detract from I guess the benefit of negative gearing so much. So there's a few things that this touches on, I think that would be beneficial. But again, the government's chosen to disregard that one.

Jan McCallum: Will you be pressing for it next year?

Paul Drum: Look it wouldn't surprise me. We haven't changed our mind, it wouldn't surprise me if it featured again in CPA Australia's next year pre-budget submission Jan.

Jan McCallum: Paul Drum thank you for talking to CPA Australia Podcast today.

Paul Drum: Thanks Jan.

Outro: Thanks for listening to the CPA Australia Podcast. To download the transcript and to find more information on today's episode, visit www.cpaaustralia.com.au/podcast/63.