Government releases Intergenerational Report 2015

The long-awaited Intergenerational Report 2015 has finally been released by the Government (Thursday 5 March).

Every five years, the Australian Government produces an Intergenerational Report that assesses the long-term sustainability of current Government policies and how changes to Australia’s population size and age profile may impact on economic growth, workforce and public finances over the next 40 years.

The three key drivers of economic growth likely to change for Australia over the next four decades identified in the report as being are: Population, Participation, and Productivity. Interestingly, Environmental changes are not factored into the economic growth projection modelling, however the report acknowledges that such changes that will affect Australian’s quality of life across a range of dimensions.
The report also explores the current state of the Australian budget and how economic and demographic trends are projected to impact the budget, under different policy settings and scenarios.

See also:
- Ministerial Statement by the Treasurer Joe Hockey, “A Compact Between The Generations”
- The media release issued by Chartered Accountants on the Intergenerational Report

> Labor’s first policy release for 2015 deals with BEPS by multi-nationals and proposes world-wide gearing limit

The Australian Labor Party has unveiled a policy aimed at base erosion and profit shifting (BEPS) by multinational companies. Details are sketchy, but the proposals are for:

- A worldwide gearing test for thin capitalisation purposes
- A crackdown on hybrid mismatches
- Additional resources for the ATO
- Faster introduction of tax transparency measures (1 July 2015, not 1 July 2016)

See Michael Croker’s latest Blog for further commentary on Labor’s announcement.

> Tax Institute’s Senior Tax Counsel to lead Tax Reform White Paper Unit

Congratulations and best wishes to the Tax Institute’s Senior Tax Counsel, Robert Jeremenko, who has been appointed as Chief of Staff for the Government's Tax Reform White Paper Unit. Mr Jeremenko is to commence his new role this week and will be on leave from TTI. We understand that the release of the preliminary Tax Reform ‘Discussion Paper’ will be next month, once the NSW State Election is out of the way.

> future[inc] paper, Risk-Wise and a Fair Go: A plan for Australia’s continued prosperity

Our latest research paper examines important trends which may influence our ability to compete internationally. These include the potential impact of megatrends such as the ageing populations, urbanisation, the Asian Century and technological advancement. Additionally, the paper examines our approach to risk and the importance of social and economic equity.

CHARTERED ACCOUNTANTS NEWS

> National Tax Liaison Group (NTLG) meeting

Michael Croker (Australian Tax Leader), Tony Stolarek (EY) and Andrew White (Greenwood Freehills) represented Chartered Accountants at the NTLG meeting in Melbourne on Wednesday 4 March 2015. Agenda items discussed at the meeting included:

- ATO consultation arrangements (post implementation review)
- Reinventing the ATO – the Commissioner will launch a new ‘blueprint’ on 19 March 2015
- Review of ATO guidance and advice – input sought on a list of current ATO rulings which could be improved, consolidated
- Review of the ATO’s test case litigation program
- Red-tape reduction (update on safe harbours project; ATO deregulation activities; implementation of Board of Review’s recommendations in Review of Tax Impediments Facing Small Business)

The meeting was co-chaired by ATO Second Commissioners Neil Olesen and Andrew Mills. Minutes will be published in due course on the ATO website.
> Comments on Exposure Draft and Explanatory Material - Company loss recoupment rules: companies with multiple classes of shares

The Chartered Accountants Australia and New Zealand submission on this draft law has been lodged with Treasury. The submission will be published on our website shortly.

> Issues to raise with the House Committee on Tax and Revenue?

Michael Croker will be meeting with the House of Representatives Committee on Tax and Revenue on 18 March 2015 as part of the Committee's on-going Inquiry into the Annual Report of the Australian Taxation Office 2014. Members who want particular issues raised should email the Tax Team.

> Accountants Exemption & Limited Licensing Framework

As members are aware from 1 July 2016, the accountants' exemption, which allows ‘recognised accountants’ to recommend the establishment or wind up of an SMSF without operating under an Australian Financial Services License (AFSL), will be removed. From this date, accountants who wish to continue to provide SMSF advice as well as provide non-product strategic financial advice will need to hold an AFSL (full or limited) or operate as an authorised representative of another licensee.

Transitional arrangements available between 1 July 2013 and 30 June 2016 provide streamline arrangements for recognised accountants, (that hold a Certificate of Public Practice), who wish to obtain a limited AFSL. Anyone applying to be licensed after 30 June 2016 will not have access to the transitional arrangements and will need to satisfy additional requirements in order to be licensed.

For further information, members are encouraged to review the range of resources and materials developed in relation to the new licensing regime available on our website. These resources should be reviewed in conjunction with updates provided in our “In the Know” newsletter.

Should you have any further questions we invite you to contact our financial services team.

> CASES

> Korda & Ors v Australian Executor Trustees (SA) Limited [2015] HCA 6

The High Court (French CJ, Hayne, Kiefel, Gageler and Keane JJ) has unanimously allowed an appeal from the Victorian Court of Appeal’s decision, holding that the sale proceeds from a timber investment scheme were not subject to an express trust in favour of the investors, and therefore were available to the receivers and managers of the scheme entities. The Court found that, while the trust deeds establishing the managed investment scheme imposed various obligations on the entities operating the scheme, the deeds contained no provision expressly declaring that such entities were acting as trustees for the investor ‘covenant holders’. Nor did the caveat provisions and other prohibitions on alienation and encumbrance indicate an intention to create a trust over the land, trees or proceeds. The High Court also observed that the creation of a security interest does not import the creation of a trust.

> Decision Impact Statement: The Engineering Manager and Commissioner of Taxation

The Commissioner’s DIS (2014/0089) says that the AAT’s finding ([2014] AATA 969) that an engineer was not a resident of Australia for the whole of the 2011 year is consistent with the ATO’s approach to residency issues (e.g. IT 2650). The Tribunal’s decision creates no new law in this area and does not change the ATO’s approach to residency cases.
LEGISLATION UPDATE

> Senate

The following Bill was returned from the Senate with four amendments:

- **Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014** – Note that amendments to reduce the tax offset rates of the research and development tax incentive by 1.5 per cent were removed from the Bill, as were amendments to abolish the seafarer tax offset. These amendments were agreed to in the House of Representatives, and the Bill now awaits Royal Assent.

The following two Bills were debated and passed by the Senate without amendment:

- **Tax and Superannuation Laws Amendment (2014 Measures No.7) Bill 2014** – contains amendments: to provide individuals with an option to be taxed on the earnings from super excess non concessional contributions at their marginal tax rate; Inspector-General of Taxation hearing tax complaints; CGT exemption for compensation and insurance; Super fund mergers; Proceeds of crime order - tax info disclosure; Exploration development incentive (supported by the Excess Exploration Credit Tax Bill); Miscellaneous amendments.

- **Excess Exploration Credit Tax 2014** – imposes an excess exploration credit tax to recover costs

> Bills which have received Royal Assent

- **Tax Laws Amendment (Research and Development) Act 2015**

> Legislative Instruments

**Privacy (Tax File Number) Rule 2015** was registered on the Federal Register of Legislative Instruments (FRLI) on 4 March 2015. The rule regulates the collection, storage, use, disclosure, security and disposal of individuals’ Tax File Number information. It replaces **Tax File Number Guidelines 2011**.

ATO PUBLICATIONS

View all ATO publications, including the following important updates:

> **Tax agent services guide**

The ATO says agents should use this guide to work out what options are available to complete a query or transaction, including online and by phone. The ATO recommend you bookmark this page as it will regularly update the information.

> **ATO website updates**

- Tax basics for small business - an introduction for those thinking about starting a business
- Tax basics for small business - depreciation
- Tax basics for small business - motor vehicle deductions
- Eligibility for net medical expenses tax offset (NMETO)
- General interest charge (GIC) rates – updated for 4th quarter of the 2014-15 income year
- Shortfall interest charge (SIC) rates – updated for 4th quarter of the 2014-15 income year
- Small Business Newsroom
- Keep your own tax obligations up-to-date (warns tax agents they face compliance action if their own outstanding tax returns are not lodged)
- Helping you connect to the right place for assistance or advice
- Capital allowances: ATO seeks input on its review of draft effective life recommendations for assets used in the survey and mapping services industry
- Correct a mistake or amend a return

> **Key messages from the ATO Tax Practitioner Advisory Group meeting on Friday 27 February**
TAX-RELATED TECHNOLOGY

> ATO system updates

- Recent tax and BAS agent portal issues – resolved (Issues with adding and removing clients, updating activity statement postal and email addresses).
- System maintenance: Provides details of system unavailability as a result of maintenance and system issues affecting the ATO's online services.
- Business and practitioner - troubleshooting: Lists, as at 4 March 2015, the known system issues affecting access to or use of ATO online services for tax practitioners or business, including the portals, electronic commerce interface (ECI) and the electronic lodgement service (ELS).

OTHER TAX NEWS

> Australia and Switzerland agree to tackle tax evasion

On 3 March 2015, Federal Treasurer Joe Hockey and Swiss Ambassador Marcel Stutz signed an agreement which allows for greater tax transparency and information exchange between the two countries (automatic information exchange based on the OECD’s common reporting standard or ‘CRS’). For example, the ATO will automatically receive details of financial accounts such as investment income and balances, that Australians hold in Switzerland, and use it to check against the income declared in Australian tax returns. The agreement also covers financial services cooperation.

> Government divestment order for breach of Foreign Acquisitions and Takeovers Act 1975 (C’th)

Order under s21A(4) against Golden Fast Foods Pty Ltd. Land known as ‘Villa Del Mare’ 63-67 Wolseley Road, Point Piper, Sydney (Gazette - C2015G00314).

The accompanying press release from the Treasurer stated that: “The property was bought illegally by Golden Fast Foods, which is ultimately owned by Evergrande Real Estate Group, a large company listed on the Hong Kong Stock Exchange, via a string of shelf companies including in Australia, Hong Kong and the British Virgin Islands…Golden Fast Foods is a foreign-owned company which failed to notify FIRB of its intended purchase.”

For details of the FIRB rules and links to relevant legislation, click here.

> Treasury and ATO appearance before the Economics Legislation Committee on 26 February 2015 – Transcript available

Worth reading for those interested in the ATO’s investigations on multi-national taxpayers.

> ATO Taskforces on serious financial crime – expanded info-sharing powers

The ATO has announced that it is leading two taskforces to combat expanding threats from phoenix businesses and the misuse of trust structures. The Phoenix and Trust Taskforces have extended information sharing powers to allow for disclosure of protected tax information by tax officers to officers of other agencies within the taskforces, e.g. Australian Crimes Commission, Australian Federal Police, ASIC, ABR, Director of Public Prosecutions.

According to the ATO, recent figures show that phoenix activity costs the Australian economy $3.2 billion each year, including a cost to innocent businesses of up to $2 billion in unpaid invoices, and to employees of up to $655 million in unpaid wages and entitlements such as super.

> Australia and New Zealand announce information sharing project to tackle unpaid NZ student loans

> NSW Labor election policy: stamp duty should be payable by instalments to help home buyers

> NSW OSR offers free web-based land tax training
Topics covered: Overview (10.00am, 10 March 2015); the principal place of residence exemption (10.00am, 17 March 2015); Trusts (10.00am, 24 March 2015); and primary production and other exemptions (10.00am, 31 March 2015). Register to book your place.

> ANU’s ‘post-Henry’ report
The Australian National University (ANU) has released ‘A Stocktake of the Tax System and Directions for Reform, Five Years after the Henry Review’. The report discusses the need to examine the GST, the income taxation of savings, superannuation taxes and the future of the company tax for multinationals and small business. It also considers directions for State tax reform. The report, written by the independent Tax and Transfer Policy Institute (TTPI) at ANU, is a stocktake of what has been achieved in the five years since the Henry Tax Review, and the challenges ahead, including what the tax system could look like in the future.

> UK Government announces crackdown on high risk promoters of tax avoidance schemes.
We understand HMRC was impressed with the comparable law in Australia.

> UK Government announces that, from 6 April, savers with an annual income under £15,600 will not be taxed on their interest income.
We like this idea in an Australian tax reform context. What do you think?

> UK Office of Tax Simplification publishes proposals to simplify tax complexities of employment status.
We’ve forwarded to the ATO these UK ideas for simplifying the difficult issue of how to determine whether a worker is employed or self-employed for tax purposes.

TRAINING & DEVELOPMENT

> Intro to Tax Workshop
This two-day, hands-on workshop provides a comprehensive overview of the fundamental topics in tax and equips you with the necessary skills required to prepare income tax returns for companies, individuals, partnerships and trusts.

MEMBER SERVICES

The weekly Tax Bulletin is an initiative of the Tax Policy Team of the Chartered Accountants Australia and New Zealand.

We invite your input on tax policy and administration issues. Please direct comments to Tax Policy Team.

Please be aware that the Tax Policy Team’s comments service is limited to the following areas:

- Where members believe they have identified a problem with the law/ATO interpretation of the law and want to bring it to our attention as a potential advocacy activity, or if they want to find out more about our advocacy activities more generally.
- Where members are experiencing difficulties dealing with the ATO, or if they believe they are
being treated unfairly.

- When members want to find out more about submissions lodged or meetings with stakeholders that they have read about in the Tax Bulletin.

For specific advice or guidance, members can take advantage of the Chartered Accountants Tax Helpline service (CATH) that has been established with Crowe Horwath.

This is a subscription service with an annual cost of $495 (GST inclusive), which entitles members to eight advisory calls of up to ten minutes duration. A 10% discount to the normal hourly rates applies for extended consultation and written advice.

**Telephone:** 1800 069 330
The phone is staffed business days 8.30am - 5.30pm, Sydney time - answering service outside these hours.
**Email:** cataxhelp@crowehorwath.com.au

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