Wealth Tech Update

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2009 Federal Budget

Summary of Measures Impacting Financial Planners

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Investment & Superannuation

Superannuation and Retirement Savings

Superannuation – Concession Caps Reduced

The Government will improve equity in the superannuation system by reducing the concessional contributions cap to $25,000 per annum (indexed), with effect from the 2009-10 financial year.

The transitional concessional contributions cap (applicable to individuals aged 50 and over for the 2009-10, 2010-11 and 2011-12 financial years) will be reduced to $50,000 per annum.

'Grandfathering' arrangements will apply to certain members with defined benefit interests as at 12 May 2009 whose notional taxed contributions would otherwise exceed the reduced cap. Similar arrangements were applied when the concessional contributions cap was first introduced.

The annual cap on non-concessional contributions is $150,000 per annum for the 2008-09 financial year and will remain at that level in 2009-10. In the future, the cap will be calculated as six times the level of the (indexed) concessional contributions cap.

Superannuation - Government Co-contributions

The Government will temporarily reduce the matching rate and maximum co-contribution that is payable on an individual's eligible personal non-concessional superannuation contributions, with effect from 1 July 2009.
The matching rate will provide a return on contributions of at least 100 per cent.

Under this measure, the matching rate will be:

- 100 per cent for 2009-10, 2010-11 and 2011-12, with a maximum co-contribution of $1000, reduced by 3.333 cents for each dollar by which the person's total income exceeds the shade out threshold for receiving the full co-contribution;
- 125 per cent for 2012-13 and 2013-14, with a maximum co-contribution of $1,250, reduced by 4.167 cents for each dollar of total income above the shade out threshold; and
- 150 per cent from 2014-15 onwards, with a maximum co-contribution of $1,500, reduced by 5 cents for each dollar of total income above the shade out threshold.

Minimum Account Based Pension Relief Extended

The Government will halve the minimum payment amounts for account-based pensions for 2009-10.

The reduction in the minimum payment amounts applies to account-based, allocated and market-linked (term allocated) pensions.

Trans-Tasman Retirement Savings

The Government has agreed in principle to the signing of a memorandum of understanding with New Zealand to establish a trans-Tasman retirement savings portability scheme. The scheme will have effect from a date set in accordance with the memorandum of understanding. The final details of the scheme are currently being settled with New Zealand.

The trans-Tasman portability scheme will permit transfers of superannuation savings between certain Australian superannuation funds and New Zealand KiwiSaver funds.

Currently, members of Australian superannuation funds may only transfer their retirement savings within the Australian superannuation system.

The introduction of the scheme will facilitate the free movement of people, potentially removing an impediment to trans-Tasman labour market mobility. It will also enable individuals to streamline and consolidate their personal retirement savings (where split across the two countries) which will reduce their exposure to multiple sets of fees and charges.

Superannuation – CGT relief extended

The Government has enhanced the optional capital gains tax loss roll-over for complying superannuation fund mergers announced on 23 December 2008 to further remove impediments to fund mergers.

The roll-over will be extended by one year to 30 June 2011 so that superannuation funds will have more time to use the roll-over.

The measure will now also apply to mergers involving pooled superannuation trusts where the continuing entity has at least five members and to mergers involving the complying superannuation business of life insurance companies.

The measure will permit merging superannuation entities in a net capital loss position to elect to roll over assets with accrued capital gains as well as assets with accrued capital losses.

In addition, the roll-over will be expanded to permit the transferring superannuation entity's previously realised net capital losses to be transferred to the continuing superannuation entity and the roll-over or transfer of revenue losses to the continuing entity.

Superannuation Unclaimed Money

The Government has amended the general unclaimed money regime relating to superannuation to align a superannuation provider's obligations under the general regime with the obligations under the temporary resident unclaimed superannuation regime. The amended regime will apply to payments of unclaimed money due after 1 July 2009.

Currently, superannuation providers are required to work out if they have unclaimed money in respect of a half year and report and pay these amounts to the Commissioner of Taxation by a set statement date.

The new regime will require superannuation providers to work out their unclaimed money on a date set by the Commissioner of Taxation and pay and report these amounts on a date also set by the Commissioner of
Taxation.

Lost Superannuation Accounts

The Government will improve the efficiency of the superannuation system by requiring superannuation providers to transfer lost accounts which have balances less than $200, or which have been inactive for five years and for which there are insufficient records to identify the owner of the account, to unclaimed monies.

Former holders of these lost accounts will still be able to reclaim their money from the ATO at any time.

Lost account balances are currently only paid to unclaimed monies when a member reaches age 65 and cannot be found by a fund trustee, or when a member dies and the trustee cannot ensure the benefit is received by the person entitled to receive the benefit.

Health Insurance and Medicare Levy

Private Health Insurance Rebate – Three Tiers
Effective 1 July 2010, the Government will introduce three new ‘Private Health Insurance Incentive Tiers’ to better balance the mix of incentives for people to take out private health insurance.

Existing arrangements will remain unchanged for singles with income of less than $75,000 per annum and families with incomes of less than $150,000 per annum. Income in this context refers to income for Medicare levy surcharge (the surcharge) purposes.

- Tier 1 will apply to singles with income of more than $75,000 (more than $150,000 for families), based on current projections.

  The private health insurance rebate will be 20 per cent, increasing to 25 per cent at 65 years of age, and to 30 per cent at 70 years.

  The private health insurance surcharge for not taking out complying private health insurance will remain at 1 per cent.

- Tier 2 will apply to singles with income of more than $90,000 (more than $180,000 for families). The private health insurance rebate will be 10 per cent, increasing to 15 per cent at 65 years of age, and to 20 per cent at 70 years.

  The surcharge for not taking out complying private health insurance will be increased to 1.25 per cent.

- Tier 3 will apply to singles with income of more than $120,000 (more than $240,000 for families). No private health insurance rebate will be provided.

  The surcharge for not taking out complying private health insurance will be increased to 1.5 per cent.

All income thresholds will continue to be indexed to wages. The income thresholds will also be adjusted for families with more than one child in the same manner as existing arrangements for the surcharge.

	Current thresholds (2010-11)	**Tier 1**	**Tier 2**	**Tier 3**
Singles	$0 - $75,000	$75,001 - $90,000	$90,001 - $120,000	$120,001+
Families	$0 - $150,000	$150,001 - $180,000	$180,001 - $240,000	$240,001+
Medicare levy surcharge	Nil	1.00%	1.25%	1.50%
Private health insurance rebate • Less than 65 years • 65 to 69 years • 70 years or over	30% 35% 40%	20% 25% 30%	10% 15% 20%	Nil Nil Nil

Medicare Levy

The Government will increase the Medicare levy low-income thresholds to $17,794 for individuals and $30,025 for individuals in families, with effect from 1 July 2008.

The additional amount of threshold for each dependent child or student will also increase to $2,757. The increase in these thresholds takes into account movements in the Consumer Price Index and ensures that low-income families and individuals are not liable to pay the Medicare levy.

The Government will also increase the Medicare levy threshold for pensioners below Age Pension age to $25,299, with effect from 1 July 2008. This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy when they do not have an income tax liability.

Social Security

Pension Bonus Scheme

The Government will close the Pension Bonus Scheme to new entrants from 20 September 2009. Existing members of the scheme will continue to accrue entitlements under existing rules.

Income Test taper rate

The Government will increase the income test taper from 40 to 50 cents in the dollar for a single pensioner and from 20 to 25 cents in the dollar for each member of a couple, for income above the relevant income free threshold.

This threshold is currently $138 per fortnight for single pensioners and $240 per fortnight for pensioner couples (combined).

As part of this measure, the higher income test threshold for pensioners with children (currently $162.60) will be abolished to align the pension income test with the allowance and family payments income tests. This recognises that assistance with the care of children is provided directly through Family Tax Benefit and Child Care Benefit.

Existing part pensioners affected by the income test changes will keep existing entitlements, maintained in real terms, plus an increase of $10.14 per week for singles or couples combined.

Income Support Pension – Assets Test Hardship Provisions

The Government will increase the readily available funds limit, which determines whether a person can access the assets test hardship provisions to receive an income support payment.

This measure increases the amount of readily available funds an income support recipient can have when relying on the hardship provisions.

For instance, the limit for a single person with no children receiving Newstart Allowance will increase from
$6,000 to $11,785.80, and for a couple it will increase from $10,000 to $21,268.00.

This measure will affect recipients of non-student income support payments including Newstart Allowance and Parenting Payment and aligns the limit with those in place for the hardship provisions for other welfare payments.

Income Test Employment Concession

To increase incentives to undertake paid employment, an income test concession for employment income will be introduced for people of Age Pension age and for veterans of Service Pension age. Employment income will be assessed fortnightly, with only half of the first $500 of fortnightly employment income to be counted in assessing their pension entitlement.

Commonwealth Seniors Health Card

The Government will not proceed with proposed changes to include gross tax-free superannuation pension income in the adjusted taxable income test for the Commonwealth Seniors Health Card.

The Government will proceed include income that is salary sacrificed to superannuation in the income assessment, with effect from 1 July 2009.

This change will be consistent with changes that have been legislated in respect of a range of other pension and allowance income tests, and arrangements that have existed for Age Pension for some time.

Liquid Assets Waiting Period - Retrenchments

The Government will amend the liquid assets waiting period for people who have become unemployed, including retrenched workers, so they can access income support more quickly.

This measure will double the maximum amount of liquid assets an eligible person can have before they are subject to a waiting period to gain access to income support.

Liquid assets are assets in the form of cash or those which can be easily converted into cash, including shares and term deposits. A single person without dependants will be able to have an increased maximum of $5,000 in liquid assets and couples can have $10,000.

The change will affect applicants for Newstart Allowance, Youth Allowance, Sickness Allowance and Austudy payments.

This change started on 1 April 2009 and will cease on 31 March 2011.

Family Tax Benefit Part A - Indexation

From 1 July 2009, Family Tax Benefit Part A (FTB-A) payment rates will be indexed by the Consumer Price Index consistent with other family payments such as Family Tax Benefit Part B and the Baby Bonus.

This will replace the current arrangement whereby maximum rates of FTB-A for children under the age of 16 are benchmarked to a proportion of the combined couple rate of pension payments, or adjusted by the
Consumer Price Index, whichever is higher.

Family Payment Thresholds

The Government will reform family payments through maintaining the higher income thresholds for family payments at their current level until July 2012.

The following higher income thresholds will remain fixed until July 2012:

- the Family Tax Benefit Part B primary earner income threshold, which will remain at $150,000;
- the income threshold for receiving the dependency tax offsets, which will remain at $150,000;
- the Baby Bonus eligibility threshold, which will remain at $75,000 of family income in the six months following the birth or adoption of a child (equivalent to $150,000 a year); and
- the higher income-free area of Family Tax Benefit Part A, which will remain at $94,316 of family income (plus $3,796 for each child after the first).

These thresholds would ordinarily be indexed by the Consumer Price Index.

Qualifying Age Pension Age and Seniors Health Care Card

The Government will increase the qualifying age for the Age Pension and the Commonwealth Seniors Health Card for men and women to 67 years of age from 2023.

The transition to the higher Age Pension age will commence in July 2017, with the qualifying age increasing by six months every two years, to reach 67 on 1 July 2023.

Increased Age Pension and New Pension Supplement

A new pension package (comprising the base pension and the Pension Supplement) will deliver the following increases:

- a $32.49 per week increase for single pensioners on the full rate of pension; and
- a $10.14 per week (combined) increase for couple pensioners on the full rate of pension.

These increases will be provided in two forms, through an increase in the base rate of pension for singles; and through an increase in a new Pension Supplement for both singles and couples.

The Government will provide a $30 per week increase in the single basic pension rate.

For the new Pension Supplement, the Government will provide:

- a $2.49 per week increase for singles; and
- a $10.14 per week combined increase for couples.

These increases bring the amount paid to singles to two-thirds (66.3 per cent) of that received by couples combined. This new ratio applies across both the base pension and new Pension Supplement.

The current benchmark of the single base pension to Male Total Average Weekly Earnings will be lifted by more than 10 per cent, from 25 per cent to 27.7 per cent. This new benchmark will be enshrined in legislation.

Goods and Services Tax Pension Supplement

From 20 September 2009, the Goods and Services Tax pension supplement, Pharmaceutical Allowance, Utilities Allowance and Telephone Allowance will be consolidated.

The new pension Supplement will initially be paid fortnightly, and from 1 July 2010, pensioners will be able to choose to receive around half of the new Supplement on a quarterly basis.

Under new arrangements, pensioners will be able to seek more than one advance per annum, with the maximum amounts increased to three times the maximum weekly basic pension (more than $700 for each member of a pensioner couple and more than $900 for a single pensioner) or 7.5 per cent of the annual pension entitlement, which ever is the lower.

Advances will be repaid over six months by direct deductions from pension payments.

A new Seniors Supplement will be established for Commonwealth Seniors Health Card holders and veterans eligible for the Gold Card. The Seniors Concession Allowance and the Telephone Allowance will be consolidated into the new Seniors Supplement. The single rate of the Seniors Supplement will include an extra $129 a year, to bring it to two thirds of the rate paid to couples combined.

Family Payment Thresholds

The Government will reform family payments through maintaining the higher income thresholds for family payments at their current level until July 2012.

The following higher income thresholds will remain fixed until July 2012:

- the Family Tax Benefit Part B primary earner income threshold, which will remain at $150,000;
- the income threshold for receiving the dependency tax offsets, which will remain at $150,000;
- the Baby Bonus eligibility threshold, which will remain at $75,000 of family income in the six months following the birth or adoption of a child (equivalent to $150,000 a year); and
- the higher income-free area of Family Tax Benefit Part A, which will remain at $94,316 of family income (plus $3,796 for each child after the first).

These thresholds would ordinarily be indexed by the Consumer Price Index.

Carer Supplements

The Government will improve assistance to carers through the introduction of a new carer supplement. The new supplement will be ongoing and non-taxable. The first payment will be made by 30 June 2009 with subsequent payments starting from 1 July 2010.

The new supplement will provide:

- $600 per annum to all Carer Allowance recipients for each person being cared for; and
- $600 per annum to all Carer Payment recipients.

People who receive both Carer Payment and Carer Allowance will be eligible for both payments.

The existing Child Disability Assistance Payment of $1,000 per annum for carers who are paid Carer Allowance (child) will continue.

Youth Allowance Income Test Relaxed

The Parental Income Test threshold applying under Youth Allowance (currently $32,800) will be increased to align with the income test threshold applying to the maximum rate of Family Tax Benefit (FTB) Part A (currently $42,559).

The threshold will be linked to the FTB index (the Consumer Price Index) to ensure consistency is maintained over time. The Youth Allowance per child taper rate will be replaced with a 20 per cent family taper rate.

All changes will take effect from 1 January 2010.

Youth Allowance Income Independence Age Reduced

The age of independence will be reduced from 25 years in 2009 to 24 years in 2010, 23 years in 2011 and 22 years from 2012. Independent students are not subject to the parental income and assets test.

Youth Allowance Personal Income Test

The Government will increase the level of personal income at which Youth Allowance and Austudy begin to be reduced from $236 to $400 per fortnight.

Payments will then be reduced by $0.50 for every dollar of income earned between $400 and $480 per fortnight and by $0.60 for every dollar earned in excess of $480 per fortnight.

The increase in the income thresholds will take effect from 1 January 2011 and will mean that students can earn more before their student support payments are reduced.

The thresholds will be indexed annually according to movements in the Consumer Price Index.

Youth Allowance Workforce Participation Criteria

The Government will tighten the workforce participation criteria for establishing independence under Youth Allowance by removing the following two eligibility criteria:

- the criterion that the recipient worked part-time for at least 15 hours per week for two years or more since leaving school; and
- the criterion that the recipient earned, in an 18-month period since leaving school, an amount equivalent to 75 per cent of the maximum rate of pay under Wage Level A of the Australian Pay and Classification Scale generally applicable to trainees (in 2009 this requires earnings of $19,532).

These changes will apply from 1 January 2010 and will not apply to students who have already satisfied the workforce participation criteria and are already independent.

Youth Allowance and FTB Part A – Workforce Participation

The Government will strengthen participation requirements for young unemployed Australians aged 15 to 20 years old seeking to receive Youth Allowance (Other) or Family Tax Benefit Part A.

Young people without a Year 12 or equivalent qualification will be required to undertake full time education or training in order to receive Youth Allowance (Other) or for their families to receive Family Tax Benefit (Part A) for that child.

Where study or training is undertaken on a part time basis, additional activities will be required to fulfil their participation requirements.

The measure will commence from 1 July 2009 for new Youth Allowance (Other) claimants and from 1 January 2010 for all Family Tax Benefit (Part A) recipients and existing Youth Allowance (Other) recipients.

Aged Care

Income Test for Residential Age Care
The Government will apply the income test for residential aged care from the day of entry, removing the current 28-day delay.

This will align the residential income-tested fee with other aged care fees payable from the day of entry into the aged care facility and will ensure an equitable sharing of costs of residential care where the resident has
the capacity to pay. The income test itself will not change.

Aged Care Residents

The Government will provide a new funding supplement paid to aged care providers on behalf of self-funded retirees and some part-pensioners to support access under changes to arrangements for residents' fees
being introduced as part of the increase to the Age Pension.

The Government will ensure that pensioners in aged care retain at least 30 per cent of the $32.49 per week pension increase to help meet their incidental expenses.

As a result, pensioners in aged care will benefit from the increased pension, having more money for incidental expenses — $10.09 more per week than they currently have.

As the maximum basic daily fee in residential aged care is linked to the rate of the single pension, the remaining 70 per cent of the pension increase will go to aged care homes in the form of an increase in the basic daily fee.

This will see the maximum basic daily fee decrease from 85 per cent to 84 per cent of the total base pension amount. As a result of the $32.49 a week increase in the pension, the maximum basic daily fee will rise from $233.87 per week to $256.27 per week.

In addition, aged care residents who are in care on 19 September 2009, and who do not receive a pension and so do not benefit from the pension increase, or are part-pensioners who do not benefit significantly from the pension increase, will have their existing fee levels fixed at the current level until they leave care.

Those entering care after 19 September 2009 and who do not receive a pension or do not receive a significant benefit from the pension increase, will initially pay the same level of fees as is currently paid by residents.

Over 4 years, their fees will gradually increase until they are paying 84 per cent of the pension, consistent with other residents.

To ensure that aged care homes receive the same level of income for all new residents entering care from 20 September 2009, a compensating Government funded aged care supplement will be introduced.

The new basic daily fees and the Government supplement will start from 20 September 2009 in line with the commencement of pension changes.

Remuneration

Funded Parental Leave

The government funded scheme will provide eligible parents with up to 18 weeks of leave at the Federal Minimum Wage, currently $543.78 per week. These payments will be treated as taxable income and will affect entitlement to family assistance payments, but will not be counted as income for income support payments.

People who elect not to receive Paid Parental Leave or who do not qualify will continue to receive the Baby
Bonus and other family payments, where they meet eligibility requirements.

Primary carers will be eligible for the scheme if they:

- earned less than $150,000 in the full financial year prior to the birth or adoption of a child;
- have worked at least 330 hours over the 10 months preceding the birth or adoption of a child; and
- have also worked continuously with one or more employers for at least 10 of the 13 months before the expected date of birth or adoption.

In some cases Paid Parental Leave will be able to be transferred to another caregiver if the primary carer returns to work before they have received their full Paid Parental Leave entitlement.

Parents who choose to receive Paid Parental Leave will not receive the Baby Bonus, except in cases of multiple births where parents will not receive the Baby Bonus for the first child only. Parents who choose to receive Paid Parental Leave will also not be eligible for the Family Tax Benefit Part B and the dependent spouse, child-housekeeper and housekeeper tax offsets for the 18 week period or whilst they are in receipt of Paid Parental Leave.

Employer Share Schemes

The Government will better target eligibility for the employee share scheme tax concessions to employees with an adjusted taxable income of less than $60,000, and will apply to shares and rights acquired after 7:30pm (AEST) on 12 May 2009.

Currently an employee can elect to be assessed on discounts provided on shares or rights in the income year the shares or rights are acquired. If no election is made, the discount, which includes gains on shares or rights, is taxed at a later time such as when restrictions on the shares or rights are lifted.

If an employee elects to be taxed upfront they receive a tax exemption of up to $1,000 on the discount.

The measure will remove the existing election and assess discounts provided on shares or rights in the income year the shares or rights are acquired.

Removing the tax deferral option will ensure that remuneration in the form of share discounts is taxed at
an appropriate time and rate, and reduces tax avoidance opportunities.

The measure will also limit access to the upfront concession to employees with an adjusted taxable income of less than $60,000. This ensures that the concessions encourage a better take-up and availability of employee share arrangements by low and middle-income employees.

Donations – FBT Relief

The Government will amend the fringe benefits tax (FBT) law to ensure that donations to deductible gift recipients (DGRs) made under salary sacrifice arrangements do not result in an employer incurring an FBT liability, with effect from the 2008-09 FBT year.

Tax Exempt Foreign Employment Income

The Government will better target the income tax exemption for foreign employment income, with effect from 1 July 2009. The exemption will apply to income earned as an aid worker, a charitable worker, under certain types of government employment or on projects that are in the national interest.

Currently, certain foreign employment income earned by Australians working overseas for a continuous period of 91 days or more is exempt from income tax. The original intent of this measure was to relieve double taxation, however, in practice little foreign tax may actually be paid on the foreign income concerned.

Instead, foreign employment income will generally become taxable and taxpayers will be entitled to a foreign income tax offset for foreign tax paid on the foreign employment income. This will relieve double taxation for those individuals.

Business

Small Business CGT

The Government will make several changes to the small business capital gains tax (CGT) concessions provisions.

A transitional rule will extend the time for taxpayers to choose to access the concessions where the choice arises from changes to the concessions announced in the 2008-09 Budget and the 2008-09 Mid-Year Economic and Fiscal Outlook.

Access to the concessions for assets acquired on the death of an individual will be extended to cover assets that have passed to a testamentary trust where the individual would have been able to access the concessions at the time of their death.

This extension will apply to CGT events happening in the 2006-07 income year and later income years.

The provisions which treat certain distributions to entities connected with a private company as dividends will be excluded from applying to the small business CGT retirement exemption. This exclusion will apply from Royal Assent of the amending legislation.

Small Business Tax Break

A bonus deduction of 50 per cent will be available to small businesses that acquire an eligible asset between 13 December 2008 and 31 December 2009 and install it ready for use by 31

December 2010. The previously announced 30 per cent and 10 per cent bonuses will continue to apply to all other businesses.

The Government has also enhanced the Tax Break for all businesses since it was announced on 3 February 2009. A taxpayer can now aggregate their investment in assets that are substantially identical, or that form a set, to meet the threshold.

Where assets are jointly held, a taxpayer can recognise all other business interests in the asset for the purpose of meeting the threshold, but will only be able to claim the Tax Break on their interest in the asset. Where a taxpayer has met the investment threshold for an asset, they can claim additional investment in the assets as part of the Tax Break.

Distributions From Private Companies

The Government will ensure that benefits provided by a private company to its shareholders or their associates are taxed by tightening the rules that prevent shareholders and their associates avoiding tax on distributions and benefits they receive from private companies.

The measure has effect from 1 July 2009.

The measure extends the non-commercial loan rules to include payments by way of a licence or right to use real property and chattels. This reduces the scope for private companies to allow their shareholders or associates to use company assets such as real estate, cars and boats for free, or at less than their arm's length value.

The measure will provide greater equity in treatment between the shareholders of private companies on the one hand and employees more generally. In kind benefits provided by employers to an employee are generally subject to fringe benefits tax.

Other technical amendments will be made to strengthen Division 7A, including to ensure that corporate limited partnerships cannot be used to circumvent its operation.

PAYG Instalments

The Government will provide cash flow relief for small business by reducing Pay As You Go (PAYG) instalments for the 2009-10 income year for all taxpayers who pay quarterly PAYG instalments based on their previous year's tax adjusted by GDP growth.

For the 2009-10 income year, the Government will reduce the GDP adjustment factor for calculating quarterly instalments under the GDP adjustment method from around 9 per cent to 2 per cent.

Non-commercial Losses

The Government will tighten the application of the rules on the use of non-commercial losses to prevent high income individuals from offsetting excess deductions from non-commercial business activities against salary and other income.

The measure will ensure excess deductions from unprofitable business activities cannot be used to reduce salary and wage income of high income earners.

Taxpayers with an adjusted taxable income of over $250,000 will instead have excess deductions quarantined to the business activity. The existing rules will continue to apply to taxpayers with an adjusted taxable income of $250,000 or less.

The new test for taxpayers with adjusted taxable income greater than $250,000 will restrict the ability of such taxpayers to claim losses for non-commercial activities that are more likely to be in the nature of lifestyle choices or hobbies.

Taxpayers will still have the ability to apply to the Commissioner of Taxation for relief from the rules if there are exceptional circumstances or because the nature of the activities means that a taxpayer is temporarily carrying on an uncommercial business but the activities they are undertaking are nonetheless independently assessed as commercially viable.

Investments

Off-market Share Buy-Backs

The Government will implement the recommendations of the Board of Taxation to improve the taxation treatment of off-market share buy-backs, with effect from the date of Royal Assent of the amending legislation.

Off-market share buy-backs are a mechanism for companies to return surplus capital to shareholders, and therefore facilitate the optimal allocation of capital across the economy.

To implement the Board's recommendations, the Government will introduce legislation to:

- establish a self-executing specific provision to debit the franking account of a company that undertakes an off-market share buy-back to cancel the tax benefit of streaming imputation credits from non-resident to resident shareholders;
- deny notional losses to shareholders that participate in off-market share buy-backs conducted by listed companies;
- modify the income tax law to specify the basis for determining the capital/dividend split, extend the period of lodgement for a distribution statement for a company conducting an off-market share buy-back, and confirm that certain integrity rules do not apply to tender style off-market share buy-backs; and
- transfer the share buy-back provisions from the *Income Tax Assessment Act 1936* to the *Income Tax Assessment Act 1997*.

Trusts

Transfers Between Trusts – CGT Relief

The Government will provide a limited capital gains tax (CGT) roll-over for assets transferred between trusts that have the same beneficiaries with the same entitlements and no material discretionary elements (typically referred to as fixed trusts), with effect from 1 November 2008.

Typically, the transfer of assets from one trust to another would trigger a CGT taxing point.

As a result of this measure, trustees of eligible trusts will be able to defer the CGT consequences of the asset transfer until the receiving trust subsequently deals with the asset. This will allow eligible trusts to restructure without immediate CGT consequences.

TFN Withholding Arrangements For Trusts

The Government will extend the tax file number (TFN) withholding arrangements to closely held trusts, including family trusts, with effect from the 2010-11 income year.

The measure will ensure that assessable distributions to beneficiaries of closely held trusts align with the amounts included by these beneficiaries in their tax returns.

The measure will not apply to income upon which tax is directly payable by the trustee of the trust, such as the income assessable to minors. Individuals who have tax withheld by trustees can claim a credit for that tax in their tax return.

Special Disability Trust

The Government will ensure that the unexpended income of a Special Disability Trust is taxed at the relevant beneficiary's personal income tax rates rather than automatically at the top personal tax rate plus Medicare Levy, with effect from the 2008-09 income year.

The Government will also extend the capital gains tax main residence exemption to include a residence that is owned by a Special Disability Trust and used by the relevant beneficiary as their main residence, with effect from the 2009-10 income year.