

August 2016

YOUR KNOWLEDGE

What Budget announcements will become reality?

The Coalition has formed Government but what happens now to all those Budget announcements? We take a look at what announcements are likely to pass Parliament and why.

While the Senate count continues, like the last Parliament, the Coalition will not have a majority in the Senate. The Government needs the support of Labor, the Greens, or a combination of smaller parties and/or independents to successfully push through its Budget reforms. From the outset we know that there will be immediate problems passing some of the Budget measures through Parliament; already there are unpopular elements that are unlikely to be supported. We look at the key issues:

Business Tax Cuts

Prediction: Heavily amended

The Budget proposed a company tax rate reduction to 25% over 10 years - starting with businesses with a turnover up to \$10m accessing a 27.5% tax rate from 2016-17. It is unlikely these tax cuts will pass the Senate in their current form.

In general, tax cuts for Australia's largest corporations are deeply unpopular despite modelling that shows an overall reduction in the corporate tax rate stimulates the economy. The Greens have stated that they will not support tax cuts for big business; describing the announced reforms in their budget reply as "liberal corporate welfare".

Most Australian businesses are small and medium businesses - over 800,000 companies, only 0.3% are large or very large. Despite the big business focus during the election campaign, there is base level support to increase the threshold to access the current 28.5% small business company tax rate from \$2m to \$10m - a position supported by Senator Xenophon's team which holds three Senate seats (the Greens also supported the current reduced tax rate for small business).

Our prediction; if the company tax cut makes it through Parliament it will be limited to expanding the existing small business tax rate to businesses up to \$10 million turnover.

Income tax cuts

Prediction: In doubt

Depending on your perspective, the Budget announcement to increase the 32.5% personal income tax threshold from \$80,000 to \$87,000 from 1 July 2016 is a stopgap against bracket creep or a hand out for middle-income households.

The Greens have rejected the reform but Pauline Hanson, whose One Nation party may have up to three Senate seats, is quoted as saying, "...there are a lot of Australians who need a break in the cost of living, who face bracket creep and are paying a lot of income tax."

There is a chance the personal tax cuts will pass Parliament, potentially with a different start date and depending on the final Senate composition. But, there may be a sting in the tail for high income earners with Mr Xenophon calling for the Temporary Budget Repair levy (debt tax) to be extended (it's due to expire on 30 June 2017). The debt tax came into effect on 1 July 2014 and is payable at a rate of 2% on every dollar of a taxpayer's annual taxable income over \$180,000 - increasing the top marginal tax rate to 49%.

Superannuation reform

Prediction: Amended

Superannuation reform will happen. The simple reason is that increasingly, SMSFs in particular, are used for tax and estate planning rather than strictly for retirement purposes. According to a 2015 report by the Association of Superannuation Funds of Australia, "... around \$360 billion is held in superannuation by those with more than \$1 million in super."

The more controversial budget measures: limiting the non-concessional contributions cap to a lifetime limit of \$500,000 from Budget night (applies to all non-concessional contributions made on or after 1 July 2007); and capping tax-free earnings on super balances to \$1.6 million, are in doubt in their current form, in part because they do not shelter existing retirees.

However, it is likely that we will see an amended form of these announcements.

The other announced superannuation reforms are more likely to pass Parliament as most parties broadly support reforming the way tax concessions apply to superannuation. These include a reduction in concessional contribution caps, an extension of the 30% tax on the super contributions of high income earners, and the removal of the tax exemption on earnings supporting transition to retirement income streams (TRIS).

One of the positives of the Budget reforms is the removal of the contribution restrictions for those 65 to 74. Under these reforms, people under the age of 75 will no longer have to satisfy a work test and will be able to receive contributions from their spouse.

We'll keep you posted.

Crowdfunding - is it worth it?

We've all seen the success stories of an innovator with a great idea who, supported by crowdfunding, was able to launch a successful and high growth business. But what happens to the money?

There are several types of crowdfunding:

- **Donation based** - funding a cause without the fundraiser providing anything in return.
- **Reward based** - funding to bring an idea or concept to fruition in exchange for a reward – discounted final product, free product or service.
- **Equity based** - funding in exchange for a share in the promoter.
- **Debt based** - funding is paid back at a rate of interest.

The Corporations Act restricts proprietary companies to no more than 50 non-employee shareholders. So, companies offering equity need to become public companies (generally small unlisted public companies) to successfully use crowdfunding to raise capital.

The most common form of crowdfunding in Australia is reward based.

Assuming the project reaches its funding target and goes ahead, the next question is often 'what happens with the money?'

Crowdfunding platforms - such as [Kickstarter](#) and Australian based [Pozible](#) - take a percentage fee on successful crowdfunding projects that reach their targets. In general, no money is transacted from either the donor or the project promoter until the funding target is reached.

If the funding is contributing to a business activity or project with the purpose of generating income, then for tax purposes the funding is assessable income in

the year the funds are received. Conversely, if you pay tax on the income you receive for your project then you can claim a deduction for expenses related to that activity.

The rewards given away may also be subject to GST. If the project promoter is registered for GST and is obliged to provide anything in return for the payment, then this is likely to be subject to GST. If there is no obligation to provide anything, then GST is unlikely to apply.

From an investor's perspective, while the promises made by crowdfunding projects are subject to consumer laws, it's very difficult to get your money back if the promoter fails to deliver. And, the platforms facilitating crowdfunding don't take responsibility if the rewards are not delivered. Also, while the money you contribute might be called a donation, it is not generally a tax-deductible donation. If you are expecting something in return for the contribution that is made, then the tax treatment of the payment will depend on the situation (e.g., a payment for an equity stake in a business is likely to be capital in nature and non-deductible).

Crowdfunding in Australia remains ill defined. A Bill before parliament before the double dissolution sought to clarify and restrict the crowdfunding process by creating clear rules for funding and consumer protections. This Bill, which may be resurrected in some form, sought to limit crowdfunding to public unlisted companies with less than \$5m in assets and raise up to \$5m per annum. [New Zealand](#) already has crowdfunding legislation in place.

Need help? Contact us today about the options and implications of alternate funding sources.

See also:

- ATO - [Crowdfunding](#)
- Draft legislation - [Corporations Amendment \(crowd-sourced funding\) Bill 2015](#)
- ASIC - [Money Smart - Crowd funding](#)
- Choice - [Crowdfunding risks, rewards and regulation](#)

Quote of the month

"Never allow a person to tell you no who doesn't have the power to say yes."
Eleanor Roosevelt



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