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Client Information Newsletter - Tax & Super June 2014

Measures set to kick off on July 1, 2014

The first section of this article outlines measures that are definitely going ahead come the new 2014-15 financial year, while the second section contains changes outlined in the recent Federal Budget that have yet to be legislated.

It is prudent that taxpayers prepare thoroughly for the changes that are certainly going ahead, and keep the proposed changes on their radar so they are not caught unaware.

Legislated changes

1) Rise in concessional contributions cap

For superannuation, the 2014-15 year will finally see an increase from the present $25,000 concessional contributions cap up to $30,000. The table below summarises the caps for those of different ages.

Income year	Cap for those aged 59 years or over on 30-06-13	Cap for those aged 49 years or over on 30-06-14	The general concessional contributions cap
2014-15	N/A	$35,000	$30,000
2013-14	$35,000	N/A	$25,000

The Tax Office also confirmed the resumed indexation of the concessional contributions cap, in line with the average weekly ordinary time earnings (AWOTE). However, the temporary higher cap for those aged 49 or over is not indexed and will cease when the general concessional contributions cap is indexed to $35,000.

The imminent increase will bring about a range of changes to various contribution strategies for self-managed superannuation fund (SMSF) members and APRA-regulated superannuation fund members alike, so it is important to start planning for the increase. The increase will also provide an added incentive to pay 15% tax instead of 49% and reduce taxable income.

2) Rise in Medicare levy

There will be a rise in the Medicare levy from 1.5% to 2% for all taxpayers from July 1 this year. This was legislated by the previous government to assist with the funding in DisabilityCare. Employers will be required to install new tax rate tables into their payroll software to capture this increase to the Medicare levy.

However no change has been proposed to the Medicare levy surcharge, which is currently imposed at a rate of 1%, 1.25% or 1.5% depending on one's circumstances. This surcharge only applies when a taxpayer does not have adequate private health insurance cover and exceeds the relevant income threshold.

3) New SMSF penalty regime

SMSF trustees found to be in breach of the regulations have faced the "all-or-nothing" prospect of being made

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non-compliant. But from July 1, the Tax Office will have the power to issue administrative penalties on a sliding scale, depending on the severity of the breach. Being deemed non-compliant is still possible, but the Tax Office will also be able to issue a "rectification" direction, can demand that the trustee undertakes an approved educational course within a specified time, or can issue monetary penalties of up to $10,200 for each breach the trustee is found to have committed.

4) Rise in superannuation guarantee

There will be a 0.25% rise in the superannuation guarantee to 9.5% from July 1, helping taxpayers further build their retirement savings. Employers are required to increase their superannuation contributions on behalf of employees to 9.5% of ordinary time earnings from July 1. The rate will remain until June 30, 2018 after which the superannuation guarantee percentage will increase by 0.5% each year until it reaches 12% from 2022-23.

Budget proposals

The measures below were contained in the Federal Budget 2014-15 and are subject to successful passage through the Parliament.

1) Reduction to the R&D Tax Incentive rates

In line with the cut to the company tax rate by 1.5% to 28.5% from July 1, 2015, the government will reduce the benefit of the R&D tax offset by also reducing the rates of the refundable and non-refundable R&D offsets by 1.5% from July 1, 2014. This means that:

- the refundable R&D tax offset will reduce from 45% to 43.5% (for eligible companies with turnover less than $20 million), and
- the non-refundable R&D tax offset will reduce from 40% to 38.5% (for eligible companies with turnover of greater than $20 million).

Importantly, the reduction in the R&D tax offset rates will occur one year ahead of the corresponding fall in the corporate tax rate.

2) Temporary budget repair levy

From July 1 this year, anyone with taxable income above $180,000 will pay an additional 2% a year in tax on the part that exceeds $180,000 for the next three years – taking their marginal tax rate to 49%, which includes the new Medicare levy. For someone earning $300,000 a year, it will mean $2,400 a year extra in tax. Strategies to avoid this proposed debt levy may include deferring tax deductible expenses to the next tax year or bringing forward income to the current tax year where possible. Consult this office to help you decide whether these strategies are suitable for you.

3) Tax receipts for individuals

The Tax Office will issue tax receipts to around 10 million individual taxpayers alongside their notice of assessment. The one-page personalised and itemised receipt will show, in dollar terms, how much of a person's tax bill was spent on each budget area. It will also show the level of gross government debt, on a per-person basis.

4) Dependent spouse tax offset to go

The government will abolish the Dependent Spouse Tax Offset (DSTO) for all taxpayers from July 1, on the back of the 2011-12 Mid-Year Economic and Fiscal Outlook measure which – from July 1, 2012 – limited access to the DSTO to those whose dependent spouses were born before July 1, 1952.

5) Annual Seniors Supplement abolished

A payment of $876.20 a year for singles or $660.40 each for a couple is currently paid to all recipients of the Commonwealth Seniors Health Card. Following its abolition however, seniors will need to review the amount they are drawing from their superannuation pension or investments to cover the shortfall.

6) Mature age worker tax offset to go

The Mature Age Worker Tax Offset (MAWTO), with a full offset of $500 that was paid to people aged 56 and over who kept working, will be abolished. The government will redirect the savings from this to fund a $10,000 two-year subsidy called Restart for employers who take on employees aged 50 and older who have been on income support for more than six months.

Eligible employers will receive $3,000 if they hire a full-time mature age job seeker who was previously unemployed for a minimum of six months if they employ that person for at least six months. Once the job seeker has been working for the same employer for 12 months, the business will receive another payment

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Measures to kick in on July 1, 2014 (cont)

of $3,000, then another $2,000 at 18 months and a final $2,000 at two years. To be eligible, businesses will need to demonstrate the job they are offering is sustainable and ongoing, and that they are not displacing existing workers with subsidised job seekers.

7) Freeze on Family Tax Benefit rates

The government will maintain – in other words, freeze – the current Family Tax Benefit (FTB) payment rates for two years from July 1, 2014. Under this measure, indexation of the maximum and base rates of the FTB Part A, and the rate of the FTB Part B will be paused until July 1, 2016.

8) Freeze on eligibility thresholds for certain social welfare payments

From July 1, eligibility thresholds for non-pension payments such as Family Tax Benefit, Child Care Benefit, Child Care Rebate, Newstart Allowance, Parenting Payments and Youth Allowance will remain unchanged for three years.

9) Parenting Payment Single to be indexed only by inflation

From July 1, the government will index the Parenting Payment Single only by the consumer price index as opposed to the higher of the increases in inflation, Male Total Average Weekly Earnings or the Pensioner and Beneficiary Living Cost Index.

10) Cease indexation on Clean Energy Supplement

The government will remove further indexation from payment of the Clean Energy Supplement, which is paid to recipients of all social welfare payments. This means the rate of payment will be the rate payable prior to July 1, 2014.

11) Support loans for tradesmen

From July 1, the government will support those learning a trade by providing concessional Trade Support Loans up to $20,000 over a four-year apprenticeship. This will replace the current "Tools for your Trade" program. ■

The "debt tax" has flow-on effects for businesses



The announcement from the Federal Budget of a three year Temporary Budget Repair Levy on high income individuals (2% in excess of $180,000 — see our Budget report for details) will result in the top marginal tax rate increasing from 47% to 49% (inclusive of the Medicare levy).

However there are a number of other taxes that are based on calculations that include the top personal tax rate, and so it is expected that these will also be increased for the same period that the debt levy is in place — from July 1, 2014 until June 30, 2017 (a different two year period applies for the increase in the FBT rate; see below).

Businesses which may be affected will need to plan accordingly in order to not be caught on the back foot — for example, the increase in the Medicare levy from the 2013-14 Federal Budget (from 1.5% to 2%) caught many off guard in that there were consequential effects to other tax rates that, then as now, relied on the top marginal tax rate as a basis for calculation.

There are some income tax rates that are automatically linked to the top marginal rate. For example, trust income to which no beneficiary is made "presently entitled" would be taxed at 49% for the relevant income years to which the debt levy applies.

Based on the explanatory memorandum to the relevant Budget bills, the taxes that follow the top marginal rate are summarised in the table that appears on the next page.

FBT rate increase

The debt levy will also affect the fringe benefits tax (FBT) rate, but over two years, not three. FBT will

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Debt tax flow-on effects (cont)

increase from 47% to 49% from April 1, 2015 until March 31, 2017 to align with the FBT income year. The government states that this is to prevent high income earners from utilising fringe benefits to avoid the levy (by way of salary sacrifice arrangements).

Both political parties are guilty of increasing the FBT rate over the last several years by boosting the top marginal tax rate.

First the former Labor government increased the top tax rate from 46.5% to 47% due to the 0.5% Medicare levy increase in the 2013-14 Federal Budget (to pay for the National Disability Insurance Scheme). Now the current government's debt levy adds another 2% to the top marginal rate.

Consequently, the gross-up rates for FBT calculations will also be affected, and this will ultimately change the grossed-up taxable value of benefits provided. Gross-up rates for 2013-14 will remain at 2.0802 for Type 1 benefits and 1.8868 for Type 2 benefits, but for 2015-16 and 2016-17, they will be 2.1463 and 1.9608 respectively. Note also that the change in Type 2 gross-up rate will also affect reportable fringe benefit amounts calculated.

As a general rule, reportable fringe benefits are required to be disclosed in an employee's PAYG payment summary where the taxable value of certain fringe benefits provided to the employee exceeds $2,000. ■

Tax rates affected	Changed from 47% to 49%
Ordinary income tax rates	**Income tax** • trustees liable to taxation under s99A of the Income Tax Assessment Act 1936 (ITAA36) – applies to trust income that is not allocated to beneficiaries • trustees liable to taxation under subsection 98(4) ITAA36 – applies to foreign resident individual beneficiaries, and • the share of the net income of a partnership attributable to a partner not having control and disposal of that income **Superannuation** • non-complying superannuation funds • the non-arm's length component of the taxable income of a complying superannuation fund • the non-arm's length component of the taxable income of an approved deposit fund, and • the non-TFN contributions income of a superannuation fund or retirement savings account provider
Other tax rates	**Income tax** • Family Trust Distribution Tax • Fringe Benefits Tax (see above for details) • Income Tax (Bearer Debentures) • First Home Saver Accounts Misuse Tax • Tax File Number Withholding Tax – Employee Share Schemes • Trustee Beneficiary Non-disclosure Tax • Untainting tax – Division 197 of the *Income Tax Assessment Act 1997*, and • Trust Recoupment Tax **Superannuation** • Superannuation (Departing Australia Superannuation Payments Tax), and • Superannuation (Excess Non-concessional Contributions Tax)

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Tactical business deductions for your end-of-year tax planning

There are various legitimate ways to go about minimising your business's tax liability, with various straightforward tax deductions that most businesses can utilise. The general rule is that you can claim deductions for expenses your business incurs in its task of generating income. Many of these deductions are obvious – rent, materials, supplies and so on.



But for all the obvious possible deductions, there are also some very often overlooked and not so obvious tax deduction tactics that you may be able to take advantage of in the run-up to the end of this financial year. These may not suit every business, so check with this office to ensure they are applicable to your situation.

Interest on loans

You can deduct interest charged on money your business borrows, including interest paid on business loans, overdrafts and other finance facilities. But there are some other aspects related to interest deductions that can easily be overlooked.

First, any interest that is accrued on a business loan but not physically paid by June 30, is potentially deductible in that year.

Secondly, it is a fact of life that many sole traders fund some business activities through their personal credit card or a personal loan. Because the interest costs are not being incurred under the business name, but in the name of the business owner, many operators have unfortunately assumed that a deduction cannot be claimed.

But remember — the tax of a sole trader's business activities is dealt with via the personal taxes of the business owner, so the interest on borrowings made for business purposes, even on the personal credit card, still qualify to be claimed as a deduction.

A CGT tactic

If your business is due to sell some assets that will realise a capital loss, try to crystallise these losses before June 30. Losses can be offset against, and therefore reduce, taxable capital gains that you may make on selling other assets. If however the sale will produce a capital gain, delay crystallising this gain until the 2014-15 income year so that you will have a full fiscal year to get in place options to offset that gain.

And if there are potentially capital gain producing assets on your register, this could help your decision about which capital losses to realise. It may even be worthwhile for you to sell an underperforming asset, and realise a loss, if this suits your CGT circumstances.

As a general rule, a "CGT event" or a disposal occurs at contract date — this could help in your planning if you sell an asset where settlement and/or payment takes place in 2014-15 but the contract is executed in 2013-14.

You can profit from your losses

Tax time is a good opportunity to do a stocktake to see if you can uncover any deductions from your trading stock – anything you produce, manufacture, purchase for manufacture or sell for your business.

If your stock level changes by more than $5,000, you must take into account the change in value of your trading stock when you work out your taxable income for the year. If the value of the trading stock is higher at the end of the year than at the beginning, then the rise counts as part of your taxable income. But if your stock is worth less, you will qualify for a deduction.

There are three different methods of valuing stock: the price you bought it for; its current selling value; and its replacement value. You can choose which you use for which piece of stock, giving you the opportunity to maximise your deductions. Note that the value of trading stock does not include GST where you are entitled to a GST credit. In this calculation, you can write down the value of any damaged or obsolete stock (potentially to nil) that hasn't been sold.

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Tactical business deductions for year-end planning (cont)

The good news about bad debts

It's a problematic fact of small business life that sometimes customers simply fail to pay for the goods or services you've sold them. But one (small) consolation is that you can claim a tax deduction for the bad debt. A bad debt is any owed amount that you have genuinely written off by year end. It might pay to go back through your outstanding invoices to find bad debts and write them off before the tax year on June 30. Contact this office for information on what constitutes a write-off for deduction purposes.

Also, if you calculate your GST on an accrual basis, don't forget to claim a refund for the GST you paid to the Tax Office when you issued the original invoice on your June business activity statement. If the debt is settled later, record this as assessable income on the BAS for the period it is paid.

Commit to employee bonuses and director fee bonuses

Many businesses are entitled to claim a tax deduction for an expense in the year in which the business has committed to the liability. If you have committed to pay employees end-of-year bonuses, the accrued expense can be claimed as a tax deduction even though it is physically paid next financial year (provided the employee is not an 'associate' of the business entity — such as a shareholder of a company).

A company can also claim director bonuses in the year the expense is accrued in the same way. For a company to claim a deduction for a director or employee bonus without physically paying the money, the company must, before the end of the financial year, commit to and document the payment of a quantified amount (which could be a formula based on profits or revenue amounts yet to be finalised).

Note: The next three tips come with something of a "conditional" clause in that their effectiveness very much depends on the relevant legislation remaining as it stands. The next two tips, for example, may be affected by the repeal of the mining tax (which is not 100% certain at this stage) which, if this eventuates, will change the depreciation rules affective January 1, 2014.

Take advantage of the $6,500 depreciation cap while you can

Small businesses shouldn't forget to claim for depreciation – getting a deduction for the loss of value and wear and tear on the business's assets. Assets usually have to be depreciated over several years, but special rules for small businesses mean that you can get an immediate tax write off for any asset costing up to $6,500 (assuming the status quo holds for this financial year). For example, if your business bought a business asset worth $4,000 in the current tax year, the business could claim an immediate 100% tax deduction when you do your tax return.

That said, the legislative wrangles mentioned above would see this write-off limit drop to $1,000, so if you're planning to buy any assets for your business, consider making the purchase before the end of this income year while you can still take advantage of the $6,500 cap. Note that the Tax Office has announced that should businesses base their tax claims on the legislation as it stands (that is, the cap of $6,500) but this is eventually changed with effect in 2013-14, it will not impose penalties or interest charges when 2013-14 returns are amended to account for the lower write-off cap (see separate story on page 9). However if the rules stay the same, and you don't take advantage of the higher instant asset write-off, you may miss out on a valuable deduction and cash flow benefit (although of course you remain eligible to amend the return later, within the timeframes).

Vehicle depreciation opportunity

There are also (for now) generous depreciation concessions for a small business buying a motor vehicle. Small businesses can depreciate cars, trucks or vans and so on more quickly than other businesses. There is a 100% deduction allowed for the first $5,000 cost of the vehicle and then the ability to depreciate the rest at 15% in the year of purchase. So, a $14,000 car would attract a tax deduction of $6,350 in the year of purchase. And if the vehicle cost less than $6,500, the whole amount can be claimed as an immediate deduction under the instant asset write-off provisions outlined above.

But, as with the general depreciation rule, the government wants to remove these concessions; the initial deduction on a $14,000 car would then drop to $4,200. So if you're considering buying a business vehicle, think about doing it before the end of the tax year. And again, if the rules change but you've based your tax return on the status quo, the Tax Office has promised no penalties or interest charges.

The debt levy and re-thinking your end-of-year strategy

One final thought is in regard to the impending Temporary Budget Repair Levy, which is planned to take affect from July 1, 2014 (2% on adjusted annual

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Tactical business deductions for year-end planning (cont)

taxable income of more than $180,000). A generally accepted tactic is to maximise tax deductions in order to get the current tax year's liability down. But there could be a case, should this levy become law, for doing exactly the opposite — delaying deductions until the next financial year, when they could be worth more because of the resulting higher overall tax rates.

This will of course depend on your circumstances, and if you operate your business as a sole trader or in a partnership, or perhaps if you withdraw large dividends from a family trading company (and you therefore pay your taxes at individual rates). Consult this office for guidance, and also for any further information regarding the above tactical deductions. ■

End-of-financial year tax and super tips for individuals

With the 2013-14 financial year quickly drawing to a close, it would be the ideal time for individuals to undertake some tax and superannuation planning for the year.



The checklist below outlines some pertinent matters to consider and provides planning tips for the 2014-15 financial year.

The list is by no means exhaustive; consult this office for specific tax and commercial advice as the situation differs according to personal circumstances.

Taxation

Dividend income

- Has all dividend income been included in the individual's assessable income upon receipt?
- Have dividends received been correctly grossed-up to reflect any imputation credits attached?
- Has the "resident" individual taken into account all franking credit offsets?
- Is the "resident" individual entitled to a refund of any excess franking credits?

Bonus income

Can payment of bonus income be deferred until the following financial year?

Personal services income

Has the individual derived income either as a sole trader or through a business structure – i.e. a company or trust? If so, does the individual satisfy the "results" test? If no, does the individual satisfy the 80% test and one of the following:

- unrelated clients test
- employment test, or
- business premises test.

Note that the personal service income rules do not apply to a "personal services business".

Has the application of the general anti-avoidance rules been considered, notwithstanding if the entity is a personal services business?

Non-commercial losses

Has the individual incurred losses from a non-commercial business activity? If so, in some situations, tax losses may not be able to be applied against other income of the individual and should be quarantined. Consult this office for guidance on situations where non-commercial loss rules would typically not apply.

Capital allowances

Has the individual acquired depreciating assets with a cost of $300 or less? An immediate deduction may be available if the asset is being used to derive non-business income – e.g. salary and wage income.

Self-education expenses

Has the individual incurred self-education expenses that have a relevant connection to the individual's

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Tax and super tips for individuals (cont)

current income-earning activities? Examples of self-education expenses include accommodation and meals if away from home overnight, student union fees, subscriptions to academic journals, purchase of equipment of technical instruments costing less than $300, depreciation of costlier assets such as computers, and course fees – consult this office for a more extensive list.

Is the taxpayer required to reduce certain allowable self-education expenses by $250? Note that certain non-deductible expenses can be offset against the $250 reduction first – e.g. travel from home to the place of education.

Prepayments

Did the individual incur non-business expenses in which:

- the period where the expenditure relates is 12 months or less, and
- the period ends no later than the last day of the income year following the year in which the expense was incurred.

If so, a deduction may be available for the current income year.

Donations

Have donations been made to a deductible gift recipient?

If so, are there any restrictions placed on the individual being able to claim a deduction? (e.g. the donation cannot exceed an entity's taxable income after disregarding the donation, carry forward losses and farm management deposits)

Can the deduction be claimed over five years instead?

Work-related car expenses

Is the individual entitled to claim a deduction for work-related car expenses for use of their own "car" – typically either owned or leased – in performing their duties as an employee? Examples include, but are not limited to: carrying bulky equipment, attending conferences or meetings and travelling between two separate places of employment. If so, the individual can choose one of four methods – cents per kilometre, 12% of original value, one-third of actual expenses, or logbook – to claim work-related car expenses.

Is the car jointly owned by individuals? Special rules apply in relation to the four available methods when this is the case.

Is the vehicle a borrowed car (that is, not leased or owned by the individual)? If so, the individual can only claim the costs they actually incurred (for example, fuel costs) as a travel expense.

Tax offsets and levies

Have all relevant offsets and levies been taken into account for the individual? Common offsets and levies and other imposts to consider include:

- dependent spouse tax offset (set to be abolished under Federal Budget measures from July 1, 2014)
- dependent (invalid and carer) tax offset
- senior and pensioner tax offset
- net medical expense tax offset (due to be phased out)
- Medicare levy
- Medicare levy surcharge
- private health insurance rebate, and
- HELP-HECS debt.

Superannuation

Superannuation guarantee charge

Has the taxpayer planned for the increase in superannuation guarantee for the following financial year in the business's expense budgets? From July 1, 2014, the superannuation guarantee rate will increase from 9.25% to 9.5%. Note the change to the schedule increasing the superannuation guarantee to 12% – it will now happen by 2022-23, as opposed to 2021-22, and compared to the Labor government's previous goal of 2019-20.

Contributions

Has the individual monitored their contribution caps to ensure that these have not been exceeded? Note: Changes to excess contributions apply in the 2013-14 financial year and later years. Under the proposed changes, individuals can elect to release an amount of excess concessional contributions from their superannuation interests.

Note that a charge also applies to ensure that taxpayers who have concessional contributions in excess of their annual cap do not receive an advantage compared to taxpayers who have not exceeded their annual cap. Refer to concessional contributions cap in 'Measures set to kick off on July 1, 2014' on page 1.

Does the individual satisfy the 10% rule for the financial year? Consider whether it would be beneficial to make a deductible personal contribution (again, beware of the concessional contributions cap and note

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Tax and super tips for individuals (cont)

that a deduction is available when the contribution is received).

Has the individual considered a superannuation salary sacrifice arrangement for 2014-15? Note that salary sacrificing is included under concessional contributions.

Is the taxpayer 64 years of age or under on July 1 of the new financial year? If so, they can apply the "bring forward" rule to make non-concessional contributions of up to $540,000 over a three-year period if this rule is triggered from July 1, 2014. Prior to July 1, 2014, the contribution cap was $450,000 over a three-year period.

Is the individual eligible for superannuation co-contributions? This is subject to income testing. Note that for contributions made in the 2013-14 financial year, the following amounts will apply:

If your personal super contribution is:				
	$1,000	$800	$500	$200
And your income is:	**Your super co-contribution will be:**			
$33,516 or less	$500	$400	$250	$100
$36,516	$400	$400	$250	$100
$39,516	$300	$300	$250	$100
$42,516	$200	$200	$200	$100
$45,516	$100	$100	$200	$100
$48,516 or more	$0	$0	$0	$0

Guidance on how to deal with instant asset write-off uncertainty — at last

As most small businesses know, the previous government introduced a number of small business tax relief measures as part of its Mineral Resources Rent Tax (MRRT, or mining tax) legislation. These included:

- the ability to instantly write off asset purchases up to $6,500 in value (up from the existing $1,000 relief)
- instant write-off of the first $5,000 spent on a motor vehicle plus 15% of the rest of the purchase price
- ability for small companies that incur tax losses to carry those losses back against profits of a previous year, with a resulting refund of tax paid in that previous year.

As part of the repeal of the mining tax, the current government proposed to also abolish these measures, with effect from January 1, 2014. However the mining tax repeal has not passed the Senate, which means that these measures have been in limbo — meaning that small businesses have also been left in limbo as far a knowing what to do about them from a practical tax treatment point of view. Currently these concessions are in the law, but should the Senate pass the legislation after July 1, they would retrospectively disappear, effective from January 1.

The continuing uncertainty for small businesses has not been helpful, and while the Federal Budget would have been an ideal opportunity to provide clarity, no such guidance was forthcoming.

The government's failure to address these concerns for small businesses has led to the Tax Office having to step up to the plate and, sure enough, in the week after the Budget it provided guidance on how businesses should deal with these measures pending either the passing of the mining tax repeal law or a revision of the proposals.

The Tax Office advises that should the mining tax (and so the concessions) be repealed, taxpayers will have to amend any tax returns already lodged that have claimed the higher rate of instant asset write off, accelerated vehicle depreciation and loss carry-backs, but – crucially – has advised that businesses that have made such claims based on existing law will not have imposed on them tax shortfall penalties or shortfall interest upon amendment.

This means that small businesses which have bought qualifying assets or will make a tax loss in the current year can now take advantage of the existing measures confident that the worst that can happen is they will have to recalculate their tax based on the new law but that they won't be hit with interest and penalties. ■

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