

THE Financial Intelligence

The Financial Intelligence is brought to you by

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How will the Henry Tax Review Affect You?

Key points of the government proposed changes

- **Superannuation:** SGC starts climb to 12% from 2013
- **Resources:** Miners to face 40% tax on their profit
- **Low income earners** get new tax benefits
- **Small business** gets tax cut head start

The government will introduce a new 'super profits' tax on resources projects which will underpin its response to the Henry review of Australia's taxation system, along with a boost to the superannuation guarantee and cut in the company tax rate.

Among the key reforms will be an increase in the superannuation guarantee to 12 per cent, from nine per cent currently, with the company tax rate to be cut to 28 per cent, from 30 per cent.

Part of the revenue generated by the Resource Super Profits Tax (RSPT), to be set at 40 per cent of profits, will be channeled into a new infrastructure fund for the states and territories.

Starting in 2012-13, the fund will deliver an initial payment of \$700 million, with an estimated \$5.6 billion to be generated over 10 years.

Resource-rich states Western Australia and Queensland will receive the bulk of the spending.

The government estimates its proposed tax changes will boost Australian gross domestic product by 0.7 per cent and real wages by 1.1 per cent.

The RSPT, which will tax profits made from non-renewable resources at 40 per cent from July 1, 2012, is expected to raise an additional

\$9 billion a year by 2014.

Under the plan, the government will give mining companies a refundable credit for royalties paid to state and territory governments to stop them paying "double" tax.

Increase in Superannuation Guarantee
A key plank of the government's reforms is an increase in the superannuation guarantee to 12 per cent, from nine per cent currently.

The guarantee, to be introduced after a three-year delay, will rise by 0.25 per cent initially, in 2013-14 and 2014-15, followed by annual 0.5 per cent rises until the full 12 per cent rate is reached in 2019-2020.

In addition, the government will allow workers aged 50 and over to make concessional contributions of up to \$50,000 annually, provided they have less than \$500,000 in superannuation.

The superannuation guarantee age limit will also be increased to 75, from 70, effective July 1 2013.

A low-income earners contribution, of up to \$500 per year for workers earning up to \$37,000, will also be made by the government

from July 1 2012.

These measures will cost \$2.4 billion over the next four years, but will add some \$85 billion to Australia's superannuation pool over the next 10 years.

Company Tax Rate Cut
The government will cut Australia's company tax rate to 28 per cent, from 30 per cent. Phased in over two years, the company tax rate will fall to 29 per cent in 2013-14, and 28 per cent in 2014-15.

Small businesses will receive the full two per cent tax cut from 2012-13, with the total cut expected to boost long-term GDP by 0.4 per cent.

Small Business Benefits
Small businesses will be eligible for an instant write-off for assets worth up to \$5,000.

Small businesses will also be able to depreciate all other assets, other than buildings, in a single pool, at a rate of 30 per cent.

Expect further announcements in the coming months, as only a handful of the 138 Henry recommendations have been acted on.



What is the National rent affordability Scheme (NRAS)?

The National Rental Affordability Scheme or NRAS was launched for the purpose of providing assistance and funding to increase the supply of affordable rental dwellings, reduce rental costs to low to mid income earners and to encourage investment on a large scale to provide more affordable housing.

NRAS is expected to supply up to 50,000 affordable rental houses across Australia by 2012, with a further 50,000 to be made available post 2012 at a cost of \$623 million.

If the investor reduces the rent by 20% (may vary according to incentive provider) of the market rent, the government will provide an incentive of \$8,000.00 per annum (\$6,000 from Federal and \$2,000 from the State governments). This payment increases in line with CPI and in 2010 it is \$8,672. This incentive is guaranteed for every year for 10 years and the incentive is TAX FREE.

Tenants are determined on an income basis with the service industries such as police, teachers and nurses targeted as potential tenants.

Key Points of The NRAS Scheme

- Increase the supply of new rental housing directly into the housing market
- Improve affordability for the eligible target groups.
- Provide a investment platform to facilitate the construction of 50,000 houses nationally.
- The properties in the NRAS scheme purchased by an investor must be brand new and have a contract for a minimum of 10 years. An investor can sell the property but it must be sold to another investor to continue the term of the contract or another property must be found to substitute for the tenant.
- Most properties range from 200k to 500k.
- NRAS provides a tax free incentive of \$8672 (for June 09) increasing with CPI for every year for 10 years.
- The dwellings are rented at a discount of up to 25% below market rent.

- Rents are indexed annually to CPI and the rents must be independently assessed in years 1, 4 and 7.

Investor Benefits of NRAS property

- Improved Yields

The minimum annual \$8,672 National Rental Incentive for each rental dwelling will improve rental yields over conventional residential investment properties. The national Rental Incentive is income tax free, indexed to the rental component of the Consumer Price Index (CPI) and is complemented by existing taxation arrangements including depreciation.

- Reduced Risk

With rents at 20% below market value and a large pool of eligible tenants, investors can expect reduced vacancy risk. Investors can be more selective in their choice of tenant. You also get Certainty of contributions from the Australian and State governments for a period of 10 years.

Do your research to determine if this type of property investment is suitable for you .

What is a Power of Attorney used for?

1. A Power of Attorney is a document which gives someone authority to act on your behalf on matters that you specify.
2. The power can be specific to a certain task or broad to cover many financial duties.
3. The power can be given to start immediately, or upon mental incapacity.

The authority granted in a Power of Attorney ceases at the death of the person granting the power.

Enduring means it continues (endures) when you are unable to make these types of decisions for yourself.

A POA has limits

This power of attorney allows your attorney to act on your behalf for financial matters only. It will not allow your attorney to make personal, medical or lifestyle decisions for you.

Medical Power of Attorney

An enduring power of attorney (medical treatment) is a legal document where you (donor) appoint someone (agent) to make medical treatment decisions for you. For example: agreeing to medication or surgery.

This is the only way you can have control over who makes decisions on your behalf if you are ever unable to do so yourself. It comes down to whether you trust the government more than your family and friends. You could lose the capacity to make decisions permanently, such as through dementia or an acquired brain injury from a car accident, or temporarily, by becoming unconscious as a result of an illness.

Depending on the state, an agent can agree to or refuse medical treatment including your involvement in medical research. They can only refuse medical treatment if:

- the treatment would cause you unreasonable distress, or

- the agent reasonably believes that you would consider the treatment unwarranted.

An agent's decision takes precedence over those of an enduring guardian you may have appointed who has healthcare powers.

An enduring power of attorney (medical treatment) cannot be used to make financial, legal or guardianship decisions.

An agent cannot agree (consent) to the following medical procedures:

- those likely to lead to infertility
- termination of a pregnancy
- removal of tissue for transplant.

Your agent must:

- act in your best interests at all times
- wherever possible, make the same decision that you would have made
- avoid situations where there is a conflict of interest.

Brett Davies, lawcentral.com.au

Business Overheads Cover (BOC) & Income Protection

An **Business Overheads Cover (BOC)** and **income protection** - how do they work together?

BOC is designed to provide protection to business owners or key employees where the business has less than five income-producing employees, not working from home. For each month a person is totally disabled beyond the selected waiting period (14 days, 1, 2, 3 or 6 months), CommInsure will cover up to 100% of the usual, regular, fixed operating expenses incurred in the month, up to the sum insured for example, if business expenses during the month of claim are \$3,000 and the sum insured is \$4,000, a benefit of \$3,000 is paid. The maximum payment is 12 times the BOC monthly benefit for either one continuous period of disability or for any one sickness or injury. In this example, with a \$4,000 monthly sum insured, the maximum payment would be \$48,000 (12 x \$4,000).

This can be best described as a 'benefit pool' rather than a one year benefit period. So if the actual business expenses in this example averaged \$3,000 per month for the duration of the disability, as the client is insured for \$4,000 per month, the benefit could last up to 16 months, as long as the total amount paid does not exceed the 'benefit pool'.

Income protection cover

Income protection is designed to insure personal income. **IT DOES NOT COVER BUSINESS EXPENSES.** Benefits are payable if a client is either totally or partially disabled after the waiting period has been met. The amount of cover provided is generally 75% of

insurable income. If a client is totally disabled, the monthly benefit is paid; if a person is partially disabled, a percentage of the monthly benefit is paid.

How do BOC and income protection work together?

BOC may be taken as a stand-alone policy or in conjunction with an Income protection policy. Income protection generally covers 75% of your business' net income (after all business

expenses) due to personal exertion, but before tax. This protects your personal income while unable to work. BOC covers 100% of usual, regular, fixed operating expenses incurred. By combining the two, you are covered for both personal and business protection.

Case study

Brian is a self-employed builder aged 35. His income comprises:

Insurable business expenses per month \$3,000 so 100% of eligible expenses = \$3000
Gross insurable income per month \$5,000 so 75% of insurable income = \$3750

In the event Brian is totally disabled and meets all conditions to claim he would receive \$3750 per month if he did not have BOC with his income protection i.e. his income protection would pay \$3,750 and he needs \$3,000 per month to cover his fixed business expenses.

If Brian had both BOC and income protection, he would receive \$3,000 to cover his incurred business costs and his income protection of \$3,750 to replace his personal income.

As is the case with all insurance coverage, BOC should be regularly reviewed to ensure the sum insured is appropriate.



What's involved in Guaranteeing a Loan?

There may be number of occasions during your lifetime when it would be beneficial to have someone guarantee a loan for you - to buy a car, house or invest in a business. But before you ask your family, friend or colleague, it's a good idea to know what you are really asking of that person.

On the other side of the coin, if you are asked to guarantee someone else's loan you need to be aware of your responsibilities.

The facts about taking on the role of guarantor

In short, a guarantor is a person who agrees to be responsible for the payment of another person's debt. A guarantee is a written promise by the guarantor that the person who is obtaining the credit will honour the terms and conditions of their loan contract.

If that isn't enough to make you think twice, be aware that if the borrower is unable to meet the payments on the loan, by signing as guarantor you have effectively become the

second borrower - which means you pay if they can't!

You might trust the other person implicitly, they might even be your own child, but anyone can get sick or lose their job. Without the means to repay the loan, it comes straight back to you. This might also include any accrued interest on outstanding payments. In most instances your guarantee is unlimited, which means you could be called upon to sell your house and/or all your other possessions just to pay off the guaranteed loan.

What if a guarantor dies?

It would appear that the person taking out the loan has nothing to lose but it is important to consider the impact on the loan should the guarantor die. In particular, many business owners have been shocked to find that the death of a guarantor triggers an automatic default in most loan agreements.

Should this situation occur, the following three scenarios can become a reality:

- You may be forced to refinance or

repay a business loan.

- The overdraft facilities of your business could be withdrawn.
- Any personal guarantees you have made to the business could be called upon.

For this reason, it is crucial that before any loans are guaranteed, all parties consider all of the factors which could seriously impact them financially, on both a personal and business level.

It is never pleasant to consider tragic events, but it is essential to secure yourself, and if you are in business, the future of your business and those who rely on you for financial support.

Appropriate insurance is the least costly and one of the most effective solutions. Your adviser can discuss a range of options with you to ensure your business and personal assets are protected.

Why Have a Testamentary trusts?

Testamentary trusts generally provide a number of advantages over leaving the likes of direct gifts, insurance proceeds and cash to beneficiaries in a will.

What is a testamentary trust?

A testamentary trust (sometimes known as a will trust) is a trust established by a person's will. Instead of having all the assets of a deceased estate distributed directly to beneficiaries, some or all of these assets may be held in a trust for the benefit of beneficiaries. Depending on their purpose, these trusts may be optional (the beneficiary can choose not to use it) or mandatory, discretionary or fixed, flexible or protective, short or long term, charitable or non charitable or a combination of these. In practice, testamentary trusts are generally set up – for maximum flexibility – as discretionary trusts. There is no limit on the number of testamentary trusts that can be set up through a will.

Testamentary trusts are administered by an executor of a deceased estate or a trustee appointed in accordance with the will and subject to the provisions of the will.

Asset protection

There are situations where there may be a loss of estate assets if they are left directly to a beneficiary. If beneficiaries acquire their inheritance personally, those assets are available to attack by creditors if the beneficiaries cannot pay debts or become bankrupt. Likewise, those assets may be available for distribution to a spouse in the event of marriage breakdown.

Assets owned by a testamentary trust are held by the trustee, so there is a level of protection for the beneficiary in the event of bankruptcy or relationship breakdown. The other asset protection advantage relates to vulnerable beneficiaries, such as spendthrift or drug-addicted children, bankrupts or disabled persons. These are usually referred to as protective trusts, where the beneficiary is in need of income and sometimes capital of the trust but is not given control.

Tax minimisation

Testamentary trusts offer significant tax advantages for beneficiaries as they provide an opportunity to split income among family members. The trustee can

choose to distribute income to those family members with lower marginal tax rates. This is particularly advantageous for minors, as income and capital gains derived by children under the age of 18 from a testamentary trust are not subject to higher tax, so that each minor beneficiary has the same tax free threshold as an adult of \$6,000 (or \$15,000 taking into account the low income tax offset).

Generally, no capital gains tax (CGT) or stamp duty is triggered on the transfer of assets from a deceased estate to a testamentary trust. There is usually CGT applicable when an asset is transferred from the trustee of a

grandchildren and relatives, any related company or trust, and where appropriate, charitable institutions.

In general, the trust deed should nominate an appointer, who has the power to replace the trustee. This person is the effective controller of the trust. The same person can be both the appointer and the trustee. The trust deed should provide for a new appointer to be chosen on his or her death, except where the appointer is the surviving spouse and the deed stipulates that the trust will automatically vest (cease) upon the death of the spouse.



testamentary trust to a beneficiary unless the beneficiary has an indefeasible right to call for the asset.

Structure

Day-to-day control of a testamentary trust lies with the trustee(s), who can be any person – such as the executor of the will, a spouse, partner or children of the will-maker – or a combination. It may be worthwhile appointing an independent trustee if asset protection is important. If the trustee is also a beneficiary of the testamentary trust, and an administrator is appointed because of financial hardship, the administrator may be able to direct the assets of the trust to creditors.

Usually, a trustee should be given broad investment powers and discretion as to the allocation of income and capital. For discretionary testamentary trusts, the trust deed should include a wide range of beneficiaries, including the controller of the trust, his or her spouse, children and

Disadvantages

You should seek professional legal advice as to their suitability for this offering and as to their appropriate structure. Implementing testamentary trusts is more complex than drafting a will, requires ongoing management and accounting of assets and income by competent trustees, and is more expensive than a simple will.

If a professional trustee is required, there will be fees for this service. Therefore, as a rule of thumb, an estate should have a minimum of \$300,000 of assets per primary beneficiary to justify the cost of setting up a testamentary trust. Another factor to consider is that, like all provisions of a will, a testamentary trust can be challenged by eligible applicants under state and territory family provision legislation.

In the right circumstances, testamentary trusts can provide significant asset protection and tax minimisation opportunities. It is important to ensure that testamentary trusts are set up correctly with the help of professional legal advice and that the advantages provided outweigh any disadvantages, such as set-up and administration costs.

Disclaimer

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