Challenges Ahead & Maximising Tax Changes Federal Budget 2016

IPA

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May, 2016

Compliance is not dead

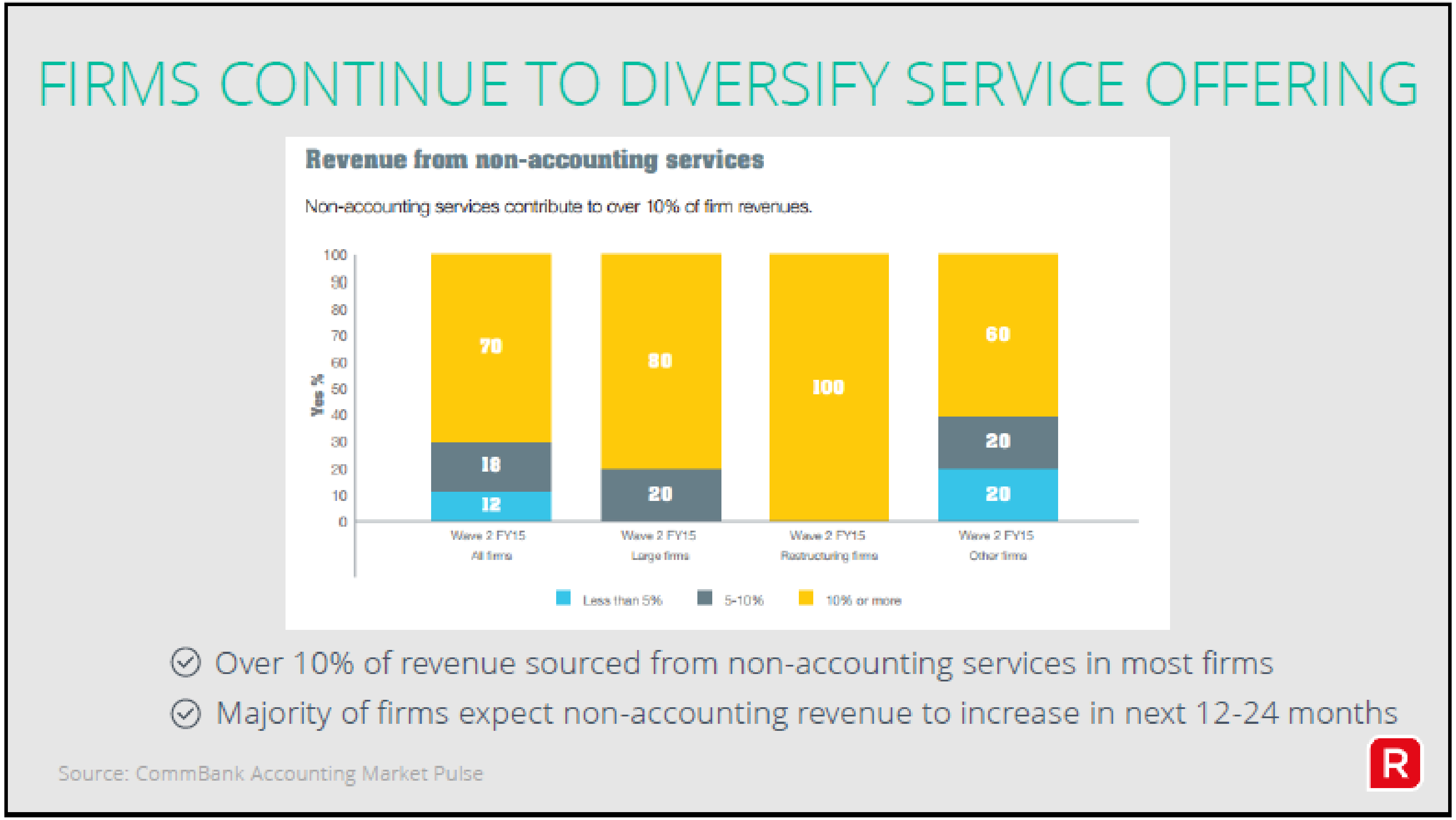
- Significant difficulty in passing on cost increases to clients and charging for compliance work
- Year of heightened awareness" regarding the future of compliance
- Firms are really taking notice now and having to really look at their business models and ask 'Can we keep doing what we're doing? Where will the revenue and margin uplifts come from?
- Realisation that boost to revenue and profit margin is "not going to be from traditional accounting compliance work"
- A lot of firms are looking at the lower-level compliance or commodity type work as just something they need to offer their clients, with a view that hopefully you'll be able to deliver more services to that client
- Business advisory and management consulting services are undoubtedly the key service lines to enter and grow over the next 12 to 18 months
- Past financial year has shown a dramatic increase in revenue from non-accounting services, business advisory model is set to thrive

Relevance

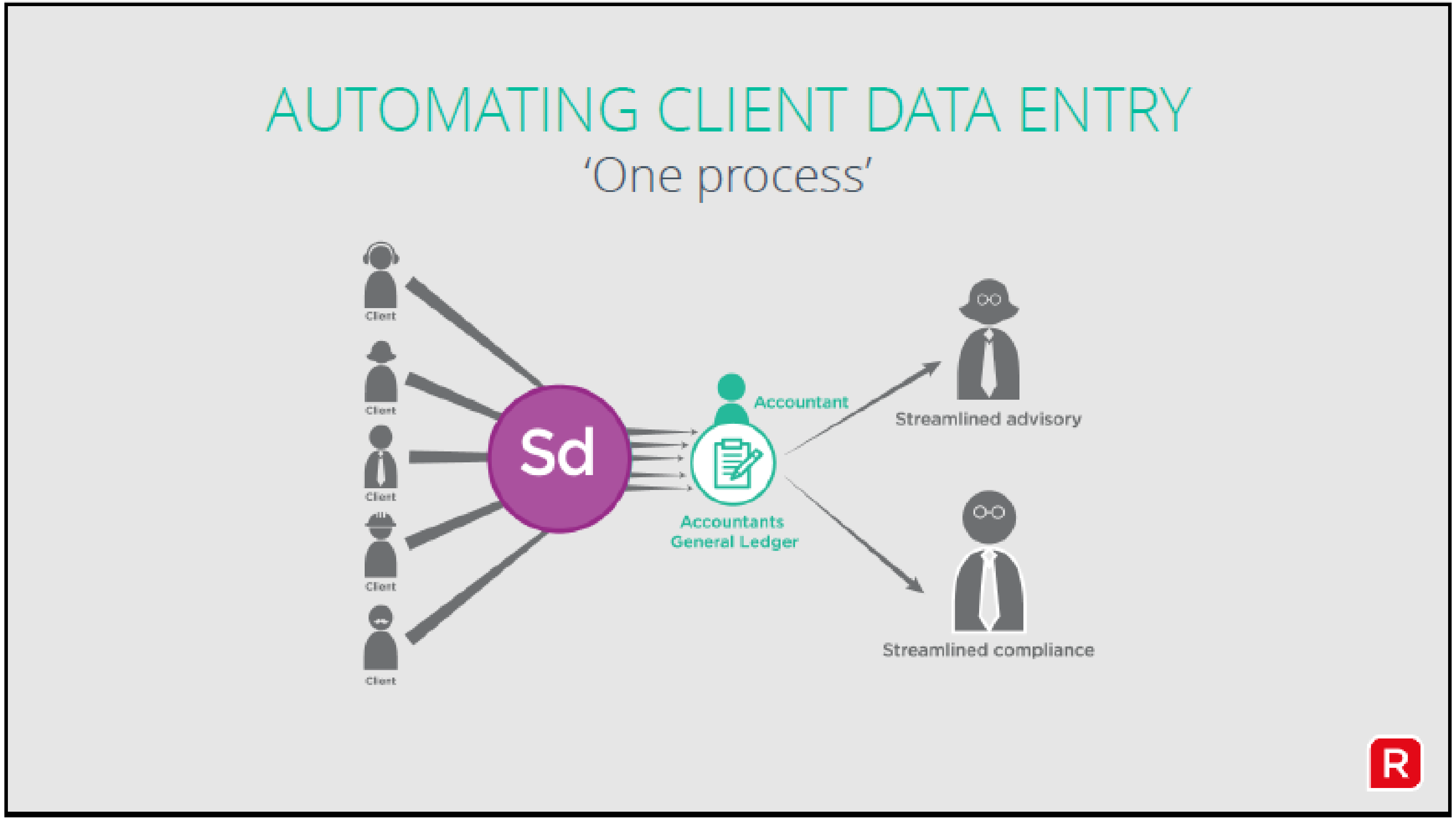
- Accounting professions biggest challenge – remain relevant digital world
- Lots of emerging trends
  - Margins under pressure as compliance services become commoditised
  - Automation and cloud software
  - Outsourcing
  - Client expectations/economic conditions
  - Billing methods
  - More competition – Other firms & financial advisers 20,000 registered with TPB
- Every practice different
- Huge advantage - Trusted advisor role still strong

Australian Accounting Services Market

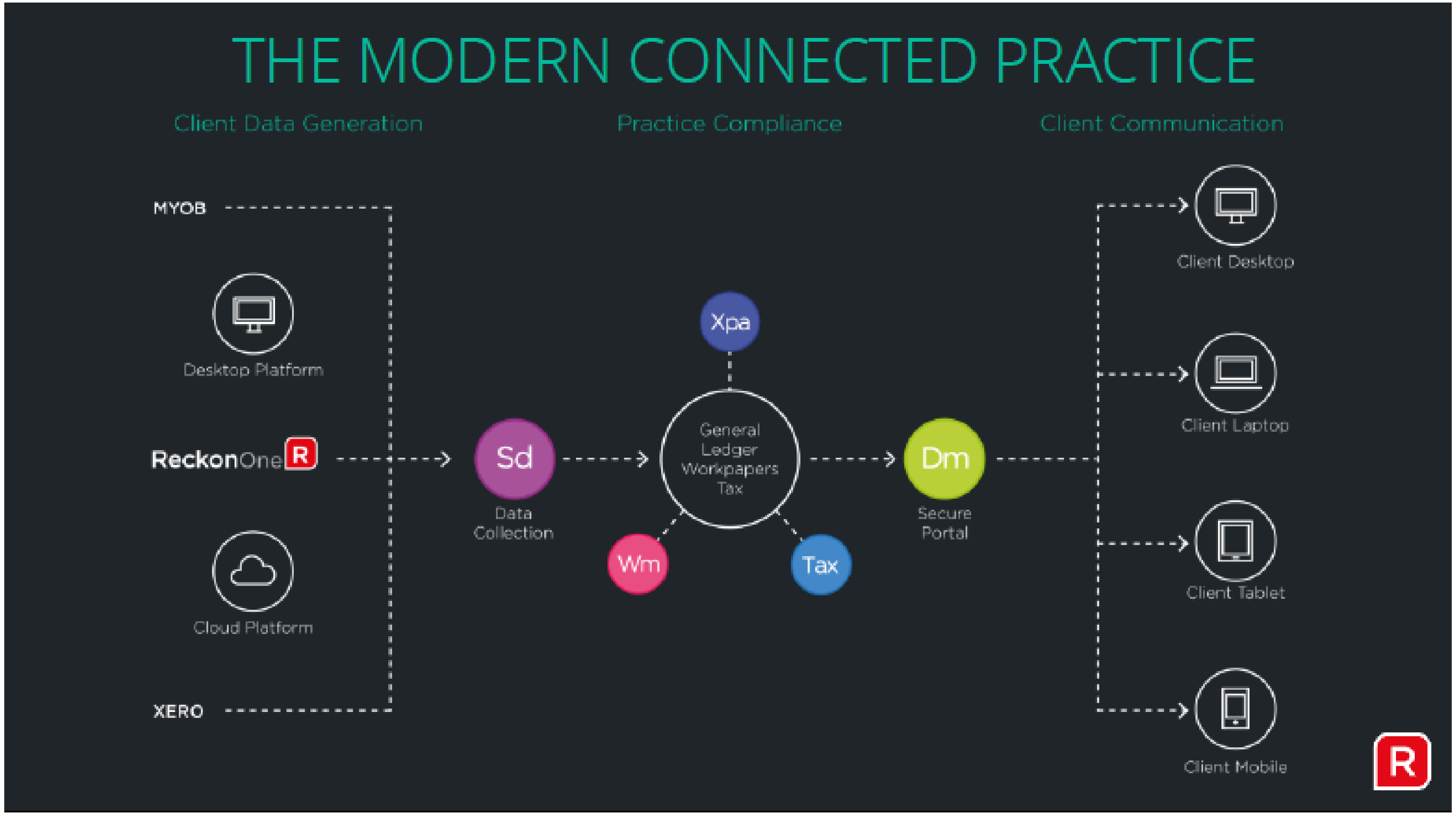
Australian Accounting Services Market



Australian Accounting Services Market



Australian Accounting Services Market



Single Touch payroll

- All businesses can commence STP reporting from 1 July 2017
- From 1 July 2018 employers with 20 employees or more will be required to use STP enabled software
- Government yet to make a decision on timing for rolling out STP reporting for employers of less than 20 employees
  - Government to conduct a pilot in first half of 2017 to assess impacts on small business sector

To assist with the transition to SBR enabled software, Government is offering $100 non-refundable tax offset

Cloud Based Software

- Early stages of a trend towards cloud accounting
  - Introduction of GST switched many SMEs from paper to computerised bookkeeping
  - About to see large movement to cloud based systems by businesses of all sizes
    - Access and real time accounting
    - Meaningful advice opportunity – virtual CFO
    - Cost effective for clients and firm

Digital by Default

A service transacted over the phone costs about **16** times the digital equivalent, through the post, about **32** times and on face-to-face transactions it is about **42** times.

What to expect in 2015-16

Portal services

TODAY

TRANSITIONAL PERIOD

FUTURE STATE

Value proposition is still strong

Numbers as at 31st October 2015

		2015	2014
Self Lodgers (eTax/MyTax)	4.3%	2,786,000	2,670,000
Paper	-(29.7%)	239,000	340,000
Agent lodged returns	.06%	5,496,000	5,463,000
Total		8,521,000	8,474,000

- For 2015/16 income year the ATO has added apps – myDeductions tool allowing individuals to capture, classify and pre-fill deductions in their tax return
- My tax will be made available to sole traders for 2016 season
- Future of work place expenses

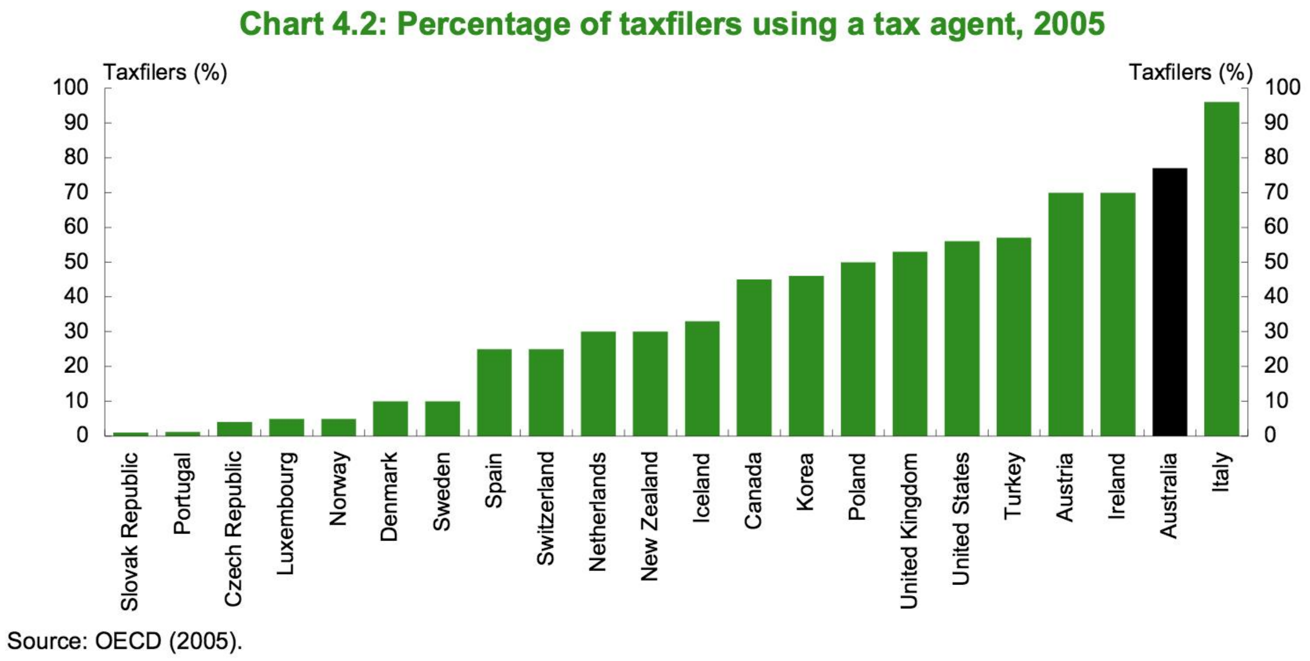
Work Place Deduction – Dodged Bullet

- The House of Representatives Standing Committee on Economics commenced a short term inquiry at the Treasurer's request

  - "the committee examine some options to simplify the personal and company income tax system, with a particular focus on options to broaden the base of these taxes in order to fund reductions in marginal rates. Matters to be examined include:
- The personal tax system as it applies to individual non-business income, with particular reference to the deductibility of expenditure of individuals in earning assessable income, including but not limited to an examination of comparable jurisdictions such as the United Kingdom and New Zealand;

  - Worst case scenario - Impact on profession of losing 4 to 5 million returns – foot traffic
  - Encourage some taxpayers to consider working as self - employed contractors

Tax agent services



Work Place Deduction

- Work place deductions seen as an entitlement – annual tax refund mentality
    - Taxpayers unlikely to give this up easily but may in exchange for cuts to personal tax rates and abolition of annual tax returns
- **<u>Good reasons for reform</u>**
    - Work related deductions claimed by employees & self employed growing
    - Over claiming of expenses under self assessment
        - Not incurred in the case of allowances
        - Invent fictitious claims to bolster quantum
        - Do not meet strict deductibility tests – domestic in nature
        - Substantiation rules not satisfied
    - Complexity that has developed over work related expenses
        - 25 page ruling explaining deductibility of clothing, uniforms and footwear which refers to more ATO guidance on clothing for specific occupations
    - Eliminate the need to lodge annual returns for taxpayers with simple affairs
    - Most New Zealand workers do not need to lodge annual income tax return
        - Traded lower personal tax rates for loss of claiming work related deductions
        - 1.25M out of 3.3M individual taxpayers filed tax return

Report Card – First term (Not Including 2016 Federal Budget)

- Small Asset Threshold increase – Temporary increase to $20K
- Concessional Tax Rate – Small Company tax rate/ Discount unincorporated entities
- Faster write 0ff business start up costs – no longer over 5 years for certain expenses previously deductible under s40-880
- Small Business Roll over relief for restructures
- ESS – benefits now taxable when realised
- Car deductions – cents per Km & logbook (abolish 12% and 1/3rd methods)
- Salary packaged entertainment – cap of $5k
- Innovation package – tax offset incentive for start-up investment, individuals will be able to access a 20% tax offset in start-up companies that are less than three years old, are unlisted and have income less than $200,000 the previous year (start date 1 July 2016)
- $100 tax offset for SBR enabled software for SBE from 1st July 2017
- International Tax changes – Multinational Tax Avoidance, country by country reporting
- Commissioner's statutory remedial power – A way for the Commissioner to deal with unforeseen or unintended outcomes applying the law

Report Card – First term not yet legislated

Same business Test

- The Government will remove the 'no new transactions or business activities' aspect of the SBT. Companies will be able to access past year losses where they satisfy the current requirements of being the 'same', whether or not the company has also commenced new business activities or entered into new transaction types.
- In addition to a relaxed SBT, the Government will introduce a 'predominately similar business test'. This test will be based on qualitative factors, which could include:
    - The extent to which the same physical and intangible assets are used for generating income
    - The extent to which the company continues to generate income from the same source
    - Whether the changes to the company are of a kind that would reasonably be expected to be adopted by a similarly placed company (e.g. to take advantage of unforseen business opportunities)
- This new test will allow companies which have adapted and changed their business as their environment changed to continue to access prior year losses as a tax deduction.
- The relaxed SBT and new 'predominately similar business test' will generally be accessed by companies.
- These changes are intended to foster increased innovation by allowing companies to remain agile and adapt to new opportunities without about tax penalties.

Report Card – First term not yet legislated

Intangible Asset Despeciation

The statutory effective lives of these assets however, can be longer than the actual life of the asset and, unlike for most tangible assets, these intangible assets with a statutory effective life cannot be self-assessed to bring the tax life in line with the economic life of the asset

What types of assets can be reassessed in terms of their taxable effective life?

- Intangible assets that currently has a statutory effective life will be able to be reassessed, these are:
- intellectual property which includes standard patents, innovation patents, petty patents, registered designs and copyrights or the licences to copyrights;
- other licences including spectrum and datacasting transmitter licences, telecommunications site access rights; and
- in-house software.

Small Business Rollover

- Intent is to put business in the position it would have been in had it been structured appropriately at its commencement
- Concession – small business rollover to allow them to select the most relevant legal structure at various stages in the life of the business without being inhibited by income tax
- Treasury trying hard to make it simple and avoid complexity
- Broader than budget night announcement in that it covers:
  - depreciating assets
  - trading stock
  - as well CGT assets

Small Business Rollover

- Eligibility rules and Who qualifies
  - No change in ultimate economic ownership of transferred assets
  - $2M turnover – current year or prior year less than $2m(maximum net asset value test dropped)
  - Intent behind allowing small business to restructure for genuine reasons – not for artificial or inappropriate tax driven schemes

  - If done for genuine reasons, restructure can facilitate income splitting or other tax advantageous outcomes
    - Transfer of assets from a company to an entity which qualifies for the CGT discount / income splitting
    - Transfer of assets from an individual to a discretionary trust for asset protection reasons which facilitates income splitting
  - Safe harbour – If three years pass from when the rollover occurs and during that entire period there is no change to the ultimate economic ownership of the significant business assets, those assets continue to be active assets then there is a legislated presumption that the motives for the restructure fall within the meaning of a genuine restructure
    - ATO could still apply Part IVA to override the safe harbour
    - Two guidance law companion guidelines introduced LCG 2016/D2 & LCG 2016/D3

Small Business Rollover

Genuine Restructure

- Question of fact – considering all of the circumstances
- Must deliver benefits to SB owners in respect of their efficient conduct of the business going forward
  - Facilitates growth, innovation and diversification
  - Adapt to change in conditions, or
  - Reduce administrative burdens, compliance costs and/or cash flow impediments
- Tax factors can be taken into account under a genuine SB restructure but it must not be unduly tax driven
- Cannot be used in the course of winding down or realising ownership interests

Small Business Rollover

CGT Implications

- Pre – CGT assets retain their pre-CGT status in the hands of the transferee
- Discount capital Gains – transferee receiving the an asset under the roll-over is treated as having acquired the CGT asset from the time of transfer
- 15 year CGT exemption – for purposes of determining eligibility for the 15 year CGT exemption for small businesses, the transferee will be taken as having acquired the asset when the transferor acquired it

Small Business Rollover

- Other issues
  - Stamp duty depending on assets transferred and state in which the assets are located
  - GST and the all things necessary requirement
  - Other transaction costs - Legal, tax and accounting fees
  - Employee obligations

- Enacted on 8th March - start date 1st July 2016
- Prudent for advisers to look at whether the current business structure needs to be changed
  - No later than the year that the $2m turnover is exceeded as the opportunity for an income tax free restructure will be lost

Car Expense Deductions

- One third of actual expenses and 12% of original value now abolished
- Cents per kilometre reduced to standard rate of 66 cents per km rather than a rate based on the engine capacity
- Logbook method becomes more attractive
  - First year you want to use the logbook need to keep for 12 continuous weeks
  - If you start to use car for business purposes less than 12 weeks before the end of the year you can continue to keep a logbook into next year

FBT Compliance activity - 2016

- Exempt Vehicles

Dual cabs

Dual cabs qualify for the work-related use exemption only if either:

- they are designed to carry a load of one tonne or more, or more than eight passengers
- while having a designed load capacity of less than one tonne, they are not designed for the principal purpose of carrying passengers

Exempt if the employee's private use of such a vehicle is limited to:

- travel between home and work
- travel that is incidental to travel in the course of duties of employment
- non-work related use that is minor, infrequent and irregular (for example, occasional use of the vehicle to remove domestic rubbish).

FBT changes - 2016

Salary Packaged meal entertainment

- FBT meal entertainment changes from 1st April 2016
- No longer use 50/50 or 12 week register
- Salary packaged meal entertainment now reportable
- Not-for-profit employers will have a separate single grossed-up cap of $5,000 for salary packaged meal entertainment

Sale of Property by Foreign Resident

Affected transactions

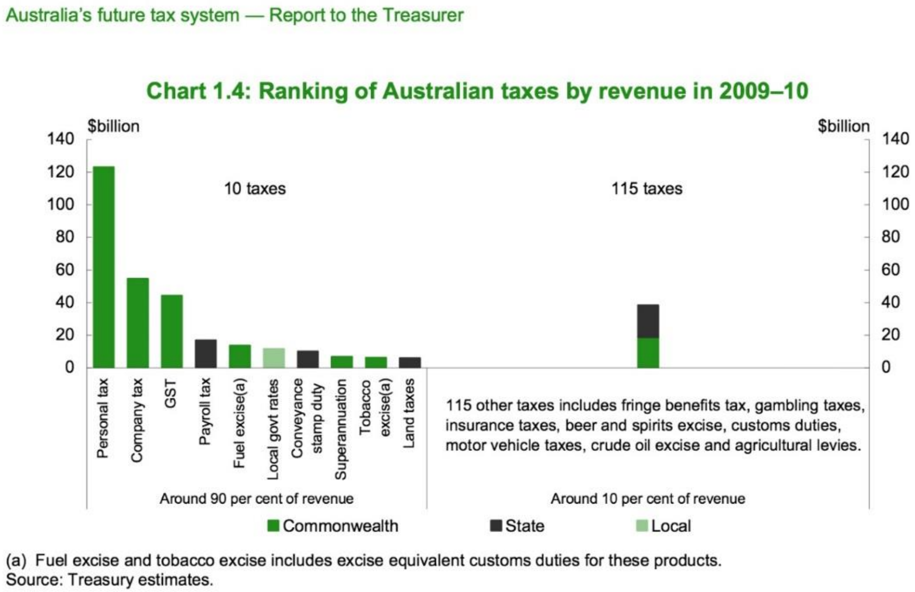
- The property is ARP
- Vendor is a foreign resident
- Sale price of the property is $2m or more

- The legislation introduces a clearance certificate model to provide certainty to purchasers regarding their withholding obligations. The clearance certificate confirms that the withholding tax is not to be withheld from the transaction.
- For real property transactions with a market value of $2 million or above, the purchaser must withhold 10% of the purchase price unless the vendor shows the purchaser a clearance certificate from the ATO. This certificate can be provided to the purchaser on or before the settlement of the transaction.
- Where a clearance certificate is provided, the purchaser is not required to withhold an amount from the purchase price.
- If the vendor fails to provide the certificate by settlement, the purchaser would be required to withhold 10% of the purchase price and pay this to the ATO.
- Note: This means **Australian resident vendors** of real property with a market value of $2 million or above will need to apply for a clearance certificate and provide this to the purchaser before settlement to ensure no funds are withheld from the sale proceeds.

Tax Reform


IT'S EARLY DAYS, AND EVERYTHING'S STILL ON THE TABLE OF COURSE, BUT MY FIRST IMPRESSION IS WE'RE GOING TO NEED A BIGGER TABLE...
· MILK
· BREAD
· REFORM TAX SYSTEM
KUDELKA. 25/1/16

Ten taxes out of 125 account for 90% of total



Federal Budget 2016 – Good, Bad & Ugly

Good

- Economic Plan
- Redirect tax savings to SME’s – growth dividend
- Glide path for reduction in corporate tax rate
- Some of the superannuation changes
- Bracket creep adjustment - $80,000 plus taxpayers

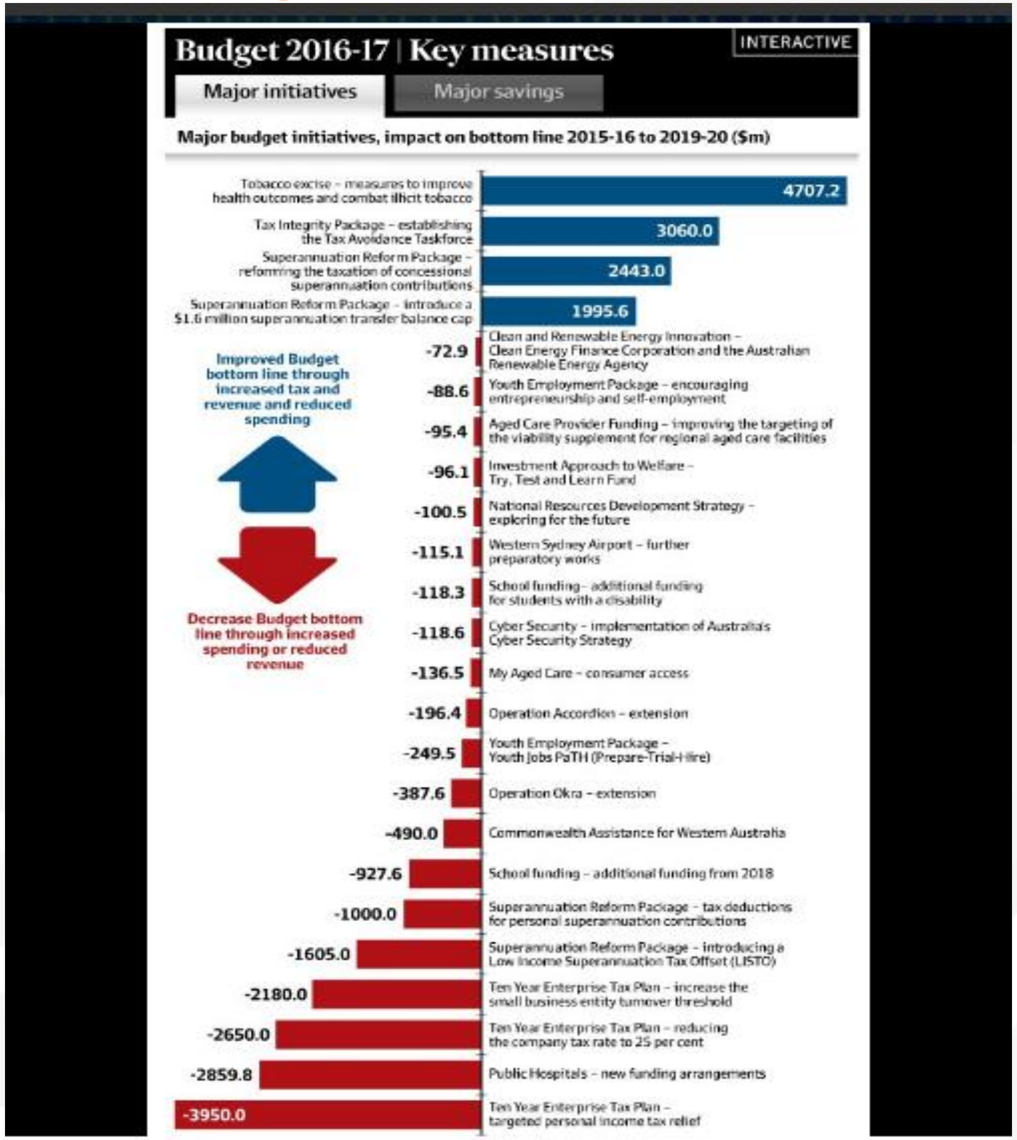
Bad

- Assumptions rosy (economic growth/Inflation/iron ore price/smokers)
- Tax Reform mothballed
- Government spending not contained
- Budget surplus 2020/21

Ugly

- Retrospective superannuation changes
- AAA credit rating at risk - level of foreign debt

2016-17 Budget



Increase of the unincorporated small business tax discount

- From 1 July 2015, individuals and individual partners in a partnership with business income of less than $2 million have enjoyed a tax discount of 5% of tax paid on business income
- From 1 July 2016, the new measures seek to increase the annual aggregated turnover threshold to $5 million. This will allow more sole traders and individuals in business partnerships to access the tax discount.
- The tax discount will also increase over the coming ten year period, with the first increase to 8% commencing on 1 July 2016. The increases will become effective as follows:

INCOME YEAR	DISCOUNT RATE (%)
2016-17 to 2023/24	8%
2024/25	10%
2025/26	13%
2026/27	16%

- The annual tax discount cap of $1,000 per individual will remain in place as the discount rate increases over the next ten years.
- While the increase in the turnover threshold results in a larger pool of eligible individuals, retaining the annual tax discount cap provides limited benefit for those who were already eligible to access the concession.

Company tax rate reductions Bottom down approach

The company tax rate reductions are as follows:

INCOME YEAR	APPLICABLE TURNOVER THRESHOLD	COMPANY TAX RATE (%)
2015-16	$2 million	28.5
2016-17	$10 million	27.5
2017-18	$25 million	27.5
2018-19	$50 million	27.5
2019-20	$100 million	27.5
2020-21	$250 million	27.5
2021-22	$500 million	27.5
2022-23	$1 billion	27.5
2023-24	all companies	27.5
2024-25	all companies	27
2025-26	all companies	26
2026-27	all companies	25

SMALL BUSINESS ENTITY TURNOVER THRESHOLD

- **SMALL BUSINESS ENTITY TURNOVER THRESHOLD TO BE INCREASED TO $10 MILLION as from 1 July 2016**
- Under the current law, businesses with an aggregated annual turnover of less than $2 million are entitled to access a number of small business tax concessions
  - Lower corporate tax rate
  - Simplified depreciation rules, including the immediate write-off of depreciating assets costing less than the threshold amount ($20,000 until 30 June 2017), and pooling of most other depreciating assets in the general small business pool (30% diminishing value rate and 15% for additions)
  - Simplified trading stock rules
  - Immediate deduction for prepaid expenses, where the prepayment covers a period of 12 months or less, that ends in the next income year
  - Simplified Pay-As-You-Go instalment calculation method using the GDP-adjusted option Accounting for GST on a cash basis and paying GST instalments as calculated by the Australian Taxation Office
  - Exemption from fringe benefits tax where work-related devices such as mobile phones, laptops and tablets are provided to employees
  - Small Business Restructure rollover relief, which was introduced earlier this year, allowing small businesses to change their legal structure / immediate deduction of professional expenses

Complexity - $2M, $5M and $10M

- The increase in the small business entity turnover threshold will allow greater access to concessions which had limited application to businesses with turnover of less than $2 million
  - $2 million threshold will be retained for the purposes of the small business capital gains tax concessions
  - the new $5 million threshold for the small business tax discount
  - Multiple thresholds increase complexity and confusion no matter how well intentioned they are

SUPERANNUATION – MAXIMUM PENSION ACCOUNT BALANCES $1.6 MILLION

- From 1 July 2017, the Government will introduce a 'transfer balance cap' of $1.6 million. This will mean that all individuals will have a maximum amount of benefits which can be held in a pension account and receive concessional income tax treatment.
  - Any increases in the pension account due to net investment earnings exceeding pension withdrawals will not be restricted, but can remain in the pension account.
- The effect of this 'maximum pension account balance' is twofold:
  - Only those assets supporting these pension accounts will be eligible for 'zero tax' on the investment earnings of those assets (or be considered tax free)
  - This will limit the amount that can ultimately be withdrawn as tax free pensions for individual tax payers.

SUPERANNUATION – MAXIMUM PENSION ACCOUNT BALANCES $1.6 MILLION

$1.6 million, they have two choices. As at 1 July 2017, the individual can:

- Transfer the excess amount (above $1.6 million) to an accumulation account balance, or
- Withdraw the excess amount from super (providing they are eligible to withdraw benefits in full)

Note: Defined benefits funds members with a pension in excess of $100,000 pa also impacted

SUPERANNUATION – $500,000 LIFETIME CAP FOR NON-CONCESSIONAL CONTRIBUTIONS (AFTER TAX CONTRIBUTIONS)

- From Budget night 2016, individuals will be limited to a lifetime non-concessional contribution cap of $500,000 which will replace the existing annual non-concessional contribution cap of $180,000 per year (or $540,000 if the 2 year bring forward rule was applied).
  - Individuals who have already exceeded the $500,000 lifetime non-concessional contribution cap prior to Budget night will not be penalised or required to remove the excess component from their superannuation savings.
  - However, individuals making non-concessional contributions after Budget night 2016 will need to be mindful of all non-concessional contributions they have made from 1 July 2007, as the lifetime cap after Budget night applies to all non-concessional contributions made after 1 July 2007

SUPERANNUATION – CONCESSIONAL CONTRIBUTION CAPS REDUCED

- The Government has announced that it will cut the annual cap on concessional contributions (deductible superannuation contributions) to $25,000, applicable to all individuals regardless of age from 1 July 2017.
- Deductible contributions include employer Superannuation Guarantee, salary sacrifice amounts, and contributions claimed as deductions in personal tax returns.
- Also applying from 1 July 2017, the threshold at which Division 293 tax applies has been reduced to $250,000. This means that any contributions caught by Division 293 are effectively taxed at 30%, rather than 15%, up to a maximum additional tax of $3,750.

SUPERANNUATION – CONCESSIONAL CONTRIBUTION CAPS REDUCED

- **ANTI-Detriment Death Benefit provision removal**
- **Contribution eligibility criteria**
  - From 1 July 2017, the Government will increase the eligibility of individuals up to 75 to make personal deductions for super contributions.
    - Firstly, it will remove the confusing restrictions on taxpayers claiming deductions in their personal tax returns for contributions made to super. No longer will such taxpayers have to show that less than 10% of their income came from employment.
    - Secondly, it is abolishing the ‘work test’ for taxpayers aged 65 to 74, allowing them to make concessional contributions to super regardless of their age.

SUPERANNUATION – TRANSITION TO RETIREMENT INCOME STREAMS (TRIS) & CATCH-UP CONCESSIONAL CONTRIBUTIONS

SUPERANNUATION – TRIS

- From 1 July 2017, income earned by assets supporting a TRIS will not be tax free in the superannuation fund. The fund will continue to pay tax at 15% on investment earnings. This change will apply to all TRIS accounts, regardless of their start date.

SUPERANNUATION – CATCH-UP CONCESSIONAL CONTRIBUTIONS

- From 1 July 2017, members with superannuation balances of less than $500,000 will have the ability to make additional concessional contributions up to the sum of their unused cap amounts. The unused cap amount is the total of the concessional contribution cap amounts that have not been utilised in previous years.
- **Unused cap amounts -**The accrual of unused cap amounts commences on 1 July 2017, and the amounts will be carried forward on a rolling basis for a period of five consecutive years

Multinationals Tax &Tax Avoidance Taskforce

- A new Diverted Profits Tax (DPT) is to be introduced imposing a 40% tax charge on large multinational entities that artificially divert profits from Australia. The tax is proposed to be effective from 1 July 2017.
- The new tax will target companies that shift profits from Australia through related party transactions. It will apply to large companies with global revenue over $1 billion.
- The DPT is based on the second leg of the UK's diverted profits regime. This widens the scope of the arsenal available for the ATO to tackle perceived anti avoidance for multinationals.
- The Multinational Anti-Avoidance Tax (MAAL) introduced last year targeted technology companies avoiding a taxable presence in Australia, with its anticipated impact restricted to a limited number of multinationals. The application of the new DPT could have a far wider impact. The DPT is more broadly focused at value chain planning structures or excessive payments which lack sufficient economic substance.

Indian tax dodgers face the music, literally

Tax Planning Opportunities

- Superannuation (Are you licensed !)
  - Concessional caps maximize 2016 & 2017 year ends
    - Particularly for high income earners (Div 293 lower threshold)
  - TRIS – one more year
  - Contribution splitting
  - Re-contribution strategy into spouse super account
  - Trusts – super system less attractive for estate planning/wealth accumulation
- Business
  - Incorporated SB – defer income take advantage 27.5% tax rate
- Individuals
  - $80,000 taxable income taxpayers
  - Incorporate if able to satisfy PSI rules

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