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Review of the Charities Act 2005

Background

On 22 February 2019, the Government released the Discussion Document, *Modernising the Charities Act 2005*. The Charities Act 2005 (the Act) established the Charities Commission and introduced a registration, reporting, and monitoring framework with the intention of promoting trust and confidence in the charitable sector. The last significant reform in this area occurred in 2011, when the Charities Commission was disestablished and its functions transferred to the Department of Internal Affairs (DIA) Charities Services and the independent Charities Registration Board (CRB).

New Zealand's charitable sector is large in proportion to its population, and makes important contributions to the wellbeing of New Zealanders. These contributions have increased over time, both in terms of financial donations and volunteer participation. While the sector has grown in size, the way in which it raises funds and delivers services has also changed over time. For example, social enterprises have become a more prominent feature in the charitable and wider not-for-profit sector.

Another unique feature of the New Zealand charitable sector is the growing size of Māori charities, particularly within the context of the recent progress in finalising Treaty of Waitangi settlements. Many iwi that have completed Treaty settlements have placed assets in charitable entities.

The Discussion Document does not propose changes to the fundamental aspects of the Act such as the registration regime, the voluntary nature of registration, public access to information about charities, and the obligation to file annual returns. However, it acknowledges that significant changes have occurred across the sector in the 14 years since the introduction of the Act and it focuses on improving the way that the current legislative framework operates. This means that the following are outside the scope of this review:

- the definition of "charitable purpose"
- tax exemptions for charities registered under the Act
- regulation of the broader not-for-profit sector (i.e. non-profit organisations that are not registered as charities under the Act), and
- contracting arrangements for government services.

Key issues

Charities' obligations

Financial reporting

Charity registration provides many benefits – notably, exemption from income tax and tax concessions for donors. Many grants are also contingent on registration, and some local authorities provide rates rebates or exemptions to registered charities. In return, charities registered under the Act are subject to annual reporting obligations to qualify for and maintain charitable status.

From 1 April 2015, new financial reporting standards set by the external reporting board (XRB) were introduced to support the Act's reporting and disclosure framework. This financial information is intended to help the public make informed decisions about which charities to support with donations or volunteered time.

Many charities (particularly smaller charities) have struggled to meet the new reporting standards. The Discussion Document seeks feedback on what further support can be provided to help charities meet their reporting obligations. For example, it is proposed that "micro" charities be subject to reduced disclosure requirements.

Accumulation of funds

It is generally accepted that there are legitimate reasons for charities to accumulate funds. For example, charities may be saving up for a large capital outlay (like a new building), or they may be saving for a "rainy day". Charities may also accumulate funds to invest in income-earning ventures to be more self-sustaining in the long run and provide benefits to future generations. This is a particular focus of iwi charities that hold Treaty settlement assets.

The Tax Working Group identified the "extent to which charities are distributing or applying the surpluses from their activities for the benefit of their charitable purposes" as a key charities tax policy issue. This Discussion Document raises similar concerns, suggesting that holding accumulated funds without clear explanation may cause public concern that a charity is not using its funds for charitable purposes.

The Discussion Document notes that some jurisdictions require charities to spend a certain minimum amount each year towards their charitable purposes. It seeks submissions as to whether similar requirements should be in place in New Zealand.

Charitable businesses

An issue which is often the subject of public interest is the registration of business entities that conduct business activities to raise funds for a charitable purpose. The Tax Working Group also considered charitable businesses in its interim and final reports, but from the perspective of the income tax exemption that currently applies for such businesses and the link to the issue around accumulation of funds. This review looks at the issue from a different perspective – that is, whether it is appropriate for such entities to be registered as a charity in the first place. In this regard, the Discussion Document raises a number of issues with the current rules and considerations that may be taken into account when considering the treatment of charitable businesses.

The current criteria for registration of unrelated businesses is arguably too restrictive. Registration of the business requires the applicant to demonstrate that the business is capable of making a profit that can be applied to charitable purposes. This may disadvantage, for example, the registration of a start-up business whose future profitability is unclear.

The regulator is concerned with charitable funds being put at risk of business failure, which would mean that charitable funds become unavailable to be used for charitable purposes. It considers investing in an active trading business as a riskier proposition than, say, a charity holding passive investments. The Discussion Document asks whether any restrictions should exist on the level of risk permissible for charities undertaking business activities.

Other considerations may impact on public trust and confidence in the sector. For example, the Discussion Document seeks submissions as to whether business subsidiaries should be required to report separately for greater transparency as opposed to filing one consolidated group return.

Other issues considered in the Discussion Document

The Discussion Document seeks submissions on a number of other important issues including:

- Te ao Māori perspectives on the regulation of charities, including whether the Act should be more flexible for iwi settlement organisations that are charities
- how the public benefit of organisations that advocate for their causes could be better assessed, and whether there should be limits placed on advocacy by charities
- the role of third-party fundraisers and whether greater disclosure of the use and cost of fundraisers should be introduced, and
- the introduction of minimum governance standards and disqualification of officers convicted of serious offences.

What's next

Public consultation is open until 30 April 2019. Once DIA officials have reviewed public submissions, they will develop policy proposals for the Minister to take to Cabinet for policy approval.

Legislation is expected to be drafted in late 2019 with an eye towards introducing draft legislation into Parliament by the end of 2019 or early 2020.

Non–resident directors’ fees: Inland Revenue’s change of view

Last year, Inland Revenue issued a draft interpretation statement discussing the tax treatment of non-resident directors’ fees. The draft statement indicated a change of view by Inland Revenue – particularly in relation to when non-directors’ fees are considered to be sourced in New Zealand. Prior to the draft statement, it was widely understood that non-resident directors’ fees only had a New Zealand source if the director physically attended directors’ meetings in New Zealand. With the release of the final interpretation statement (IS) in February 2019, this is no longer the case.

In brief, the IS now states that:

- Directors’ fees paid to a non-resident individual will, in most cases, have a New Zealand source irrespective of whether the director performs any duties (i.e. attends meetings) in New Zealand.
- Directors’ fees paid to a non-resident entity will have a New Zealand source to the extent they are:
    - attributable to a permanent establishment in New Zealand; or
    - duties are performed in New Zealand.

What does this mean?

Whenever a company appoints a non-resident director, it must determine whether the directors’ fees it pays have a New Zealand source and then whether withholding tax is required to be withheld.

Non-resident individuals

Generally, the IS concludes that where a company contracts with a non-resident individual to become a director, the payment will likely have a New Zealand source. Where the individual is from a country that has a double tax agreement (DTA) with New Zealand then the recently enacted source rule in relation to income taxable under a DTA will apply to the extent the director’s fee is taxable in New Zealand (which will generally be the case).

However, even if the above does not apply (i.e. there is no DTA) then the IS concludes that the directors’ fees are likely to still have a New Zealand source on the basis that:

- directors have a special statutory connection to New Zealand
- the contract is most likely formed in, and subject to, New Zealand law
- payment is likely being made from New Zealand.

While each scenario must be assessed on its facts, in many cases regardless of the DTA, directors’ fees paid to non-resident individuals will now have a New Zealand source.

Non-resident entities

In contrast, directors' fees paid to non-resident entities will only have a New Zealand source where:

- the directors' fees are attributable to a permanent establishment in New Zealand; or
- directorship services are performed entirely or partly in New Zealand.

As such, if the director attends meetings via videoconference only (and does not have a permanent establishment in New Zealand) then it is likely that the directors' fees will not have a New Zealand source.

In the situation where the director attends some meetings in New Zealand, an apportionment calculation will be required to determine the portion of directors' fees paid that are sourced in New Zealand.

Companies receiving the directorship services

Companies receiving directorship services will need to consider any withholding tax obligations that may arise if a payment of directors' fees to a non-resident has a New Zealand source. It will be a "schedular payment" unless the directors provide the New Zealand company with a certificate of exemption or an exclusion applies.

Therefore, it is critical for companies to understand whether directors' fees are made to a non-resident individual or a non-resident entity and if they have a New Zealand source. To the extent the payment has a New Zealand source, consideration needs to be given to determine if any of the exclusions from "schedular payment" applies e.g. the director has full DTA relief and is in New Zealand for fewer than 92 days in a 12-month period or the total contracts payments they receive do not exceed $15,000 in a 12-month period. However, it is important to note that these exclusions are only relevant in relation to "non-resident contractors" i.e. directors who perform services physically in New Zealand.

It is important to note that the rate of withholding will depend on several factors and can range from 15% to 45% including whether the payment is made to an individual or entity and if a declaration form has been completed.

Our thoughts

The IS results in a change in the tax treatment of directors' fees paid to non-residents.

These rules are very complex and require a detailed analysis of the facts as they apply to each non-resident director engagement. We encourage companies to review all of the engagements in place and consider whether withholding tax is required to be deducted.

Tax bill reported back: Changes to the proposed research and development tax credit

The Finance and Expenditure Committee (FEC) has *reported* back to Parliament with several amendments to the proposed Taxation (Research and Development Tax Credits) Bill (the Bill). The Bill is currently undergoing its second reading and is expected to be enacted by mid-2019, with the tax credit applying from the 2019-20 income year. Businesses should therefore start thinking about transitioning into the new research and development (R&D) tax incentives regime, especially those with early or standard balance dates whose 2019-20 income year would have already begun.

The FEC recommended a number of amendments to the Bill to ensure the operation of the new R&D tax credit regime reflects the policy intent. To a large extent, the changes are taxpayer-friendly. However, software developers in particular need to be aware of how the changing eligibility of software development affects them and determine whether any action is required.

See our *October edition of Tax Tips* for a recap of the core features of the upcoming R&D tax incentives.

Key amendments to the proposed R&D tax credit

- **Internal software R&D expenditure cap increased from $3m to $25m p.a.**

  This amendment follows an overwhelming majority of submissions that discussed software R&D calling for an increase on the original cap. The FEC considers the new cap will better reflect the contemporary costs of software development.

- **Definition of eligible internal software development tightened**

  Internal software development undertaken for the purposes of internal administration will be excluded from receiving the credit. Furthermore, the integration of existing systems with new software will also be excluded. The sum of these amendments will exclude internal software development, other than that which would improve a company's services to customers, from receiving the credit.

- **Explicit inclusion of joint ventures**

  The FEC proposes removing the sole controlling rights requirement and allowing joint ventures to be treated as a collective when meeting the minimum expenditure threshold, provided the constituent members themselves are eligible. The allocation of R&D tax credits to members of a joint venture will be proportional to their interest in the joint venture.

- **Contracted eligible R&D expenditure will be fully claimable**

  The restriction on claiming a contractor's "profit margin" of 20% as eligible R&D expenditure will be removed. As such, 100% of contracted eligible R&D expenditure will be eligible. The FEC considered the initially proposed restriction could incentivise businesses to conduct R&D in-house when it would be more efficient to outsource it.

- **Constraints on Orders in Council powers**

  Any addition or removal by Orders in Council will require the relevant Ministers to consult relevant parties prior to exercising changes. Furthermore, any resulting change will only apply from the following year, and the Order in Council will expire after three years.

- **Pilot program of the "in year approval" regime to begin late 2019**

  The FEC proposes implementing a pilot programme for the in-year approval mechanisms (the general approval process and significant performer regime) for the first year of the regime. The pilot programme will allow Inland Revenue to improve the in-year approval processes before they would be rolled out to all claimants in the second year.

- **Changes to eligible expenditure**

  Eligible R&D expenditure will be expanded to include employee share schemes, employee recruitment and relocation costs, and bonuses. On the other hand, new exclusions on eligible expenditure includes the cost of purchasing land and the loss on sale or write-off of depreciable property.

- **A smoother transition process away from the Callaghan Innovation Growth Grant regime**

  Callaghan Innovation Growth Grant recipients with a late balance date will be eligible to claim the R&D tax credit for the balance of their financial year after all Growth Grants cease on 31 March 2021. Additionally, a potential loophole that would allow an associated person of a Growth Grant recipient receiving the R&D tax credit will also be removed.

Commentary on other submissions

In total, the FEC received 32 written submissions and heard evidence from 13 submitters. Inland Revenue policy officials identified 14 common focus areas that were largely submitted on. Ultimately, a majority of submissions in these areas were either rejected or put on hold for discussion at a later date. Below is a table that outlines some of the other major submission issues and the corresponding official commentary on why they were rejected or noted.

Issue	Commentary from officials
"Material" is not well defined	Officials declined to insert a definition. *"Accounting concepts are not relevant in determining the meaning of "material" in this context because the R&D tax incentive regime is tax-based."*
Current definition of R&D unsuitable for software development	*"Widening the definition, [...] may let in activities of the kind that the government does not wish to incentivise"* Officials want to avoid software developers claiming for capability uncertainty, that is - "we are not sure if we can pull this off" - rather than technological uncertainty.
Software testing are excluded activities	*"Officials do not consider it appropriate to allow testing to be an eligible core activity. It does not seek to resolve scientific or technological uncertainty but identifies problems that need to be resolved."*
Commercial production rule - eligible overheads should be allowed where R&D is performed in the course of commercial production	Declined to amend as *"the commercial production rule is designed so that the extra costs associated with R&D are eligible but that the costs that would have been incurred anyway as a result of commercial operations are not eligible."*
Removing ineligible expenditure from contracted R&D expenditure calculation should be removed as this will increase compliance costs for the principal	Officials disagree. *"If ineligible expenditure is not taken out of the contract amount for R&D tax credit purposes, then the integrity of the system would be undermined."*
Increasing foreign expenditure cap	Officials disagree as *"New Zealand receives limited benefit where the R&D happens overseas, even if there is no choice but to perform the R&D overseas."*
Increase refundability - possibly to full	*"The Government has committed to reviewing the refundability rules that apply from year 2 of the regime. These views will be considered as part of that review."*
Contemporaneous record keeping raises compliance costs	*"Businesses could reasonably expect that if they wanted to claim an R&D tax credit, they would need to keep records. Since the Bill will not be enacted until after the regime starts to apply, there will be some leniency taken in respect of the compliance approach taken."*
Compulsory in-year approval process increases compliance costs	Officials will not move on this point as *"evidence from other jurisdictions suggests that the integrity of the system requires compulsory in-year approval."*

Our thoughts

Generally, these amendments should improve the operational effectiveness of the R&D tax credit regime. We support the clarification around the eligibility of joint ventures, where the previous uncertainty could have undermined the purpose of the regime. We also welcome the constraints on Orders in Council powers. This will provide more certainty to businesses by requiring any changes to go through a consultation process.

Finally, we look forward to engaging Inland Revenue on the "in year approval" pilot programme. Please contact *our R&D specialists* if your business is interested in participating in the pilot and we can discuss the next steps.

While we welcome increasing the cap on internal software development to $25 million, we also note that the cap may become moot if the narrowed definition of internal software development proves too restrictive for businesses to claim eligible expenditure. Furthermore, the amended definition does not clarify the arbitrary distinction between customer facing software that is considered internal because it is not sold and other software that is considered external because it is sold.

In the light of the changing R&D tax incentive regime, we recommend you review your internal R&D governance and ensure all processes are accurate, compliant, and up-to-date. This includes your corporate governance policies, the procedures in place to ensure claims are reviewed, the knowledgeable technical personnel, and record keeping.

New Zealand incorporated companies more likely to be considered dual resident as a result of the ATO's guidelines on tax residency of foreign companies

The Australian Tax Office (ATO) has released its final Practical Compliance Guideline, PCG 2018/9: *central management and control test of residency; identifying where a company's central management and control is located* (the Guideline). The Guideline is relevant to the determination of tax residency of foreign incorporated companies. From a New Zealand perspective, the guideline increases the likelihood that a New Zealand incorporated entity will be considered an Australian tax resident.

By way of background, if either of the following tests are satisfied, a company will be a tax resident of Australia:

- The company carries on a business in Australia and has its central management and control (CM&C) in Australia.
- The company carries on a business in Australia and its voting power is controlled by shareholders who are resident in Australia.

The Guideline aims to provide practical guidance to assist foreign incorporated companies (e.g. New Zealand entities) apply the principles as set out in the Taxation Ruling *(TR 2018/5) Income tax: central management and control test of residency* as released on 21 June 2018 (the Ruling).

The Ruling and the Guideline represent a change in the approach historically taken by the ATO to determine whether a company incorporated outside of Australia has its central management and control in Australia.

Specifically, there will be greater focus on the location of the real decision makers, and whether the directors of the foreign company (e.g. those incorporated in New Zealand) independently consider directions given to them by its Australian parent/owner. Having board meetings outside of Australia will no longer be sufficient to conclude a company is not tax resident in Australia.

The Ruling and Guideline also makes clear that foreign companies do not need actual trading or investments operations to take place in Australia in order for it to be carrying on business in Australia – rather, a company that has its central management and control in Australia will still be considered to be carrying on business in Australia even if it carries on its actual trading activities elsewhere.

All facts and circumstances need to be considered. It will be increasingly important to ensure appropriate documentation and records are maintained of both board meetings and other key decisions made.

From a practical perspective, the tax consequences of being both a New Zealand tax resident (by virtue of incorporation) and Australian tax resident (by virtue of central management and control) can lead to a number of undesirable outcomes from New Zealand and Australian domestic law perspectives.

For New Zealand domestic law purposes, dual residency will result in restrictions around maintaining an imputation credit account, offsetting tax losses, and being a member of a consolidated tax group. Further, the recently enacted anti-hybrid rules may result in deductions being denied.

Dual residency will also have a significant impact from a treaty perspective. Following recent amendments to the Australia/New Zealand double tax agreement, a dual resident company will be required to seek mutual agreement from the competent authorities as to the jurisdiction of its residence in order to access relief under the double tax agreement.

Many taxpayers will be required to revisit their governance, systems, and process and, in many cases, act quickly to make necessary changes before the transitional period ends on 30 June 2019. We recommend that, at a minimum, New Zealand incorporated companies with operations in Australia review their governance arrangements to confirm whether central management and control is (and continues to be) exercised outside of Australia.

Our Australian colleagues provide further detail on the Guideline in *TaxTalk – Insights*.

New NZ/China DTA replaces 1986 agreement

On 1 April 2019, New Zealand and the People's Republic of China *signed* a new double tax agreement (DTA). The new DTA will introduce a modernised tax treaty to replace the 1986 agreement.

The effective date of the new DTA has not yet been confirmed. Both countries will need to perform the relevant domestic procedures and exchange diplomatic notes before the agreement comes into force. The earliest effective date would be from 1 January 2020.

Summary of key changes

- *Permanent establishment definition extended* – the permanent establishment (PE) definition will be extended such that a representative of the non-resident will only need to habitually play a 'principal role' leading to the conclusion of contracts that are routinely concluded without material modification in order to give rise to a PE of the non-resident. This contrasts with the current PE definition which required the representative to habitually conclude contracts on behalf of the non-resident in order to give rise to a PE.

  The extended PE definition is consistent with the OECD's base erosion and profit shifting (BEPS) Action Plan, and looks to limit the ability of some multinationals to structure their affairs to avoid the creation of a PE. We recommend that business processes and contractual arrangements are reviewed to confirm whether the new definition could result in a PE to your business.

- *Dual residents will require competent authority approval to access treaty benefits* – under the 1986 agreement, a person other than an individual is deemed to be a resident of the Contracting State in which its head office is situated (even if it is incorporated in the other Contracting State). Under the new DTA this corporate tie-breaker test will be removed and replaced with a requirement for a dual resident to obtain mutual agreement of the competent authorities as to the jurisdiction of its residence. In the event no agreement is reached, the person will not be entitled to any relief under the DTA.

- *Reduced dividend withholding tax rate* – a 5% dividend withholding tax rate will be introduced where the beneficial owner has held a direct interest of at least 25% of the company during a 12-month period that covers the payment date.

- *No withholding tax on dividends paid to a Government holding less than 25%* - dividends paid to a Government as a beneficial owner will not be subject to tax provided that its direct or indirect holding equates to less than 25% of the voting power in the company paying the dividend.

The new DTA will contain provisions similar to those introduced to a number of New Zealand's other tax treaties under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. This is a welcome development as this brings our tax treaty with China more in line with New Zealand's modern treaty network and reflects the current state of play. However, the requirement to obtain competent authority approval in cases of dual resident companies is likely to add another level of red tape for multinational companies.

Tax bills update

Bill/Act	Key amendments	Stage	Quick links
Taxation (Research and Development Tax Credits) Bill	Introduces a research and development tax credit of 15% and various related rules	The Bill was introduced on 25 October 2018. It passed its first reading on 1 November 2018 and was referred to the Finance and Expenditure Select Committee (FEC), which reported back to Parliament on 3 April 2019. The Bill is awaiting its second reading.	*Tax Tips Alert*
Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill	Introduces a Goods and Services Tax (GST) on low value imported goods; introduces ring-fencing of residential rental deductions; addresses issue relating to securitised pre-1990 forest land	The Bill was introduced on 5 December 2018. It passed its first reading on 11 December 2018 and has been referred to the FEC. Submissions have closed and the FEC is due to report back to Parliament on 11 June 2019.	*Tax Tips Alert*
Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Act	Changes to the payment of secondary tax for individuals; introduces two new KiwiSaver employee contribution thresholds of 6% and 10%; enables tax refunds to be issued to individuals automatically; introduces process for small businesses to apply more easily for a binding ruling	The Act received the Royal assent on 18 March 2019, and is now in force.	*Tax Tips Alert*

Australian Federal Budget 2019-20

Earlier this month, the Australian Treasurer delivered the 2019-20 Australian Federal Budget. The Budget included a number of tax measures, including personal tax cuts, business tax changes, refinements to the recently introduced hybrid mismatch rules, and changes to Australia's tax treaty arrangements.

The key tax changes included in the Budget are summarised below. Further details can be found in *PwC Australia's coverage*.

Global tax

Refinement to Australia's hybrid mismatch rules

The Australian Government announced proposed amendments to the recently introduced Australian hybrid mismatch rules. These amendments will, broadly, have the same application date as the original hybrid mismatch rules (i.e. income years commencing on or after 1 January 2019).

The proposed amendments are expected to:

- include rules which clarify the application of the hybrid mismatch rules to Australian multiple entry consolidated (MEC) groups and trusts. The manner in which the rules apply to trusts has been a particular area of uncertainty
- limit the definition of foreign tax, which could impact, for example, the concept of "subject to foreign income tax" and "foreign income tax deduction", and
- specify that, for income years commencing on or after April 2019, the integrity rule which affects certain payments of interest (or of a similar character) directly or indirectly to "foreign interposed zero or low rate" (FIZLR) entities, can apply where other provisions have applied. This is a change from the current law which states that the integrity rule does not apply if a payment gives rise to any of the other six types of hybrid mismatches. This rule is a unilateral measure and a key departure from the Organisation for Economic Co-operation and Development (OECD) recommendations in relation to hybrid mismatch arrangements.

Although some of these changes had been anticipated, details of the proposals have not yet been released by the Australian Government. Taxpayers are also awaiting Australian Taxation Office (ATO) guidance on the application of the integrity rule, and the interaction of Australia's hybrid mismatch rules with foreign tax rules.

Measures in relation to tax treaties

Two separate measures impacting tax treaties were announced:

- Refinements to the International Tax Agreements Act 1953 to provide that certain income covered by a tax treaty is deemed to have an Australian source. No start date was announced for the proposed amendments.
- A double tax agreement (DTA) between Australia and the State of Israel, which was signed on 28 March 2019, will be given the force of law in Australia.

Business tax

Instant write-off of depreciable assets

The Budget increases the existing instant asset write-off threshold for small businesses (aggregated turnover of less than AUD 10 million) to AUD 30,000. It also extends the measures to include medium-sized businesses which have an aggregated annual turnover of up to AUD 50 million.

The instant write-off for medium-sized businesses will apply for depreciable assets purchased and first used, or installed ready for use, from 7:30pm (AEDT) on 2 April 2019 to 30 June 2020. As with the existing instant asset write-off, the threshold applies on a per asset basis, allowing businesses to benefit from the write-off of multiple depreciable assets.

Deferral of private company deemed dividend reforms

The Australian Government announced that it will defer its proposals to amend the Division 7A deemed dividend rules, which apply to treat certain loans from private companies to its shareholders and associates as taxable dividends, to now apply to income years commencing on or after 1 July 2020. Importantly, this will also result in the deferral of the proposed changes to the treatment of unpaid present entitlements (UPEs). The Division 7A reforms were originally due to apply from 1 July 2019 (as announced in last year's Federal Budget).

Personal tax

The Budget includes personal tax cuts for low and middle income earners, building on last year's Personal Income Tax Plan which is already legislated.

The new Low and Middle Income Tax Offset (LMITO), which applies from 1 July 2018 until 30 June 2022, currently provides a tax offset of up to AUD 530 per year in addition to the Low Income Tax Offset (LITO) (which is a maximum of AUD 445). The Australian Government has announced its intention to phase in over time increases to the maximum amount of the LMITO to AUD 1,080 per year. The first time that the benefit of this reduction in income tax will be received by affected taxpayers will be when they are assessed on their 2018-19 income tax return.

From 1 July 2022, the LITO and the LMITO will merge into a new LITO. The Australian Government has announced in this year's Budget that increases to the maximum amount of this LITO will be phased-in from AUD 645 (as currently legislated) to AUD 700 per year.

Under the already legislated Personal Income Tax Plan, gradual changes to the tax thresholds will occur to eventually remove the 37 per cent tax bracket and apply a 32.5 per cent tax rate to taxable income between AUD 41,000 and AUD 200,000 by 1 July 2024. Additional tax threshold and marginal rate changes have now been announced, increasing the current top threshold of the 19 per cent tax bracket from AUD 41,000 to AUD 45,000 from 1 July 2022 and reducing the 32.5 per cent marginal tax rate to 30 per cent from 1 July 2024.

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