FirstTech Budget briefing

May 2012

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Introduction

Federal Treasurer Wayne Swan has handed down his fifth Budget promising to deliver a surplus of $1.5 billion in 2012-13. This will be the first surplus since Labor came to power in 2007.

The fiscally conservative Budget will save $33.6 billion by reducing spending across almost every Government department and portfolio.

The Budget aims to share the benefits of the resource boom by using the mining tax to fund cash payments and tax breaks to families and low income earners and provide a supplement for students, the unemployed and parents with young children. However, Mr Swan also stated that in order to deliver these benefits several previously announced measures would be abandoned including the one per cent cut to the company tax rate.

In an unexpected move, the Government decided to defer the $50,000 concessional cap for individuals age 50 and over with account balances under $500,000. The concessional cap will be $25,000 for everyone in 2012-13 and 2013-14. This will likely result in a reduction in concessional superannuation contributions and an increase in inadvertent concessional cap breaches.

Another superannuation announcement that is likely to reduce superannuation contributions is the increase to tax on contributions for individuals with income greater than $300,000. Concessional contributions for these individuals will be taxed at 30% rather than 15%.

This FirstTech Budget Briefing provides a summary of the relevant budget announcements and how they may affect your clients.

Superannuation

Higher tax on concessional contributions for very high income earners from 1 July 2012

The Government proposes that individuals with income greater than $300,000 will have the tax concession on their concessional contributions reduced by 15%. That is, these higher income earners will be subject to a 30% rate of tax on non-excessive concessional contributions rather than the 15% rate.

Details on exactly how this measure will operate (such as whether it means a dual-rate contributions tax (ie 15% and 30%), a super surcharge-like mechanism or an extension to the excess contributions tax assessment and collection process) have not been provided, other than the following:

- 'Income' means taxable income, concessional super contributions, adjusted fringe benefits, net investment loss, target foreign income, tax-free government pensions and benefits, less child support.
- If concessional contributions themselves push a person over the $300,000 limit, the higher rate of tax will only apply to the part of the contributions that are in excess of the threshold.
- 'Concessional contributions' means all employer contributions (both SG and salary sacrifice), deductible personal contributions and notional employer contributions for defined benefit members.
- Excess concessional contributions will only be subject to excess contributions tax not the additional 15% tax.

FirstTech comment

The overall impact of this measure will be to increase the tax burden by up to $3,750 (i.e. 15% of $25,000) on concessional contributions made by very high income earning clients.

Currently, an individual on the highest marginal tax rate may choose to make excessive concessional contributions in the knowledge that the overall tax of 46.5% is the same as receiving that income as taxable income. This does not essentially change under this measure, albeit with non-excessive contributions being subject to a higher rate of tax.

Potential winners are those clients on the highest marginal tax rate but who will not be subject to additional tax on super contributions that is those on incomes between $180,000 and $299,999.

Deferral of higher concessional contributions cap from 1 July 2012

The general $25,000 concessional cap will apply to all individuals from 1 July 2012 to 30 June 2014.

The Government proposal to provide a higher concessional cap for individuals age 50 and over with super balances below $500,000 will be deferred until 1 July 2014. Further, in its mid-year economic statement released in November 2011 the Government proposed pausing indexation of the general concessional cap until 1 July 2014. It therefore expects that the general cap is likely to increase to $30,000 in 2014/15 with the higher cap commencing at $55,000. Table 1 summarises the concessional cap for the current and subsequent three financial years.

Table 1 – Concessional contributions caps 1 July 2011 to 1 July 2014

Financial year	**2011-12**	**2012-13**	**2013-14**	**2014-15** (expected, but subject to actual indexation changes)
General concessional cap	$25,000	$25,000	$25,000	$30,000
Concessional cap for over-50s	$50,000	$25,000	$25,000	$55,000*

Note: * Where the individual's super balance is less than $500,000

The actual details of the operation of the higher concessional cap for over-50s have not been finalised and will be addressed over the coming two years, in time for implementation with SuperStream and associated reforms. One such reform is an online reporting facility being developed by the ATO to provide comprehensive account balance information.

FirstTech comment

Clearly a reduction in concessional caps has the potential to lead to inadvertent cap breaches, as was seen in 2009-10 when all caps were halved. Advisers will need to be active in their communication to those clients who will need to revise salary sacrifice and other concessional contribution arrangements for the 2012-13 and 2013-14 years.

Lower concessional caps will reduce the tax-effectiveness of super contributions strategies in varying degrees for clients aged 50 or more. This is summarised in Table 2.

Table 2 – Effect of reduced concessional caps

Client's Marginal tax rate	31.5%	38.5%	46.5%
Additional tax payable over 2 years compared to 2011-12	$8,250	$11,750	$15,750

Note: Assumes $50,000 of pre-tax income used either wholly for concessional contributions or contributions are reduced by $25,000 due to the reduction in the concessional cap and taxed at marginal tax rates.

Further impacts will be felt by those clients implementing transition to retirement (TTR) strategies, particularly those aged 60 or over whose ability to swap significant levels of tax-free pension income for concessionally taxed super contributions will be limited. While TTR remains an effective strategy, its benefits are reduced, as shown in Table 3.

Table 3 – Effect of reduced concessional caps on TTR strategies

Benefit of TTR strategy	31.5% MTR ($80,000 income)		38.5% MTR ($170,000 income)		46.5% MTR ($290,000 income)	
Concessional cap	**$50,000**	**$25,000**	**$50,000**	**$25,000**	**$50,000**	**$25,000**
Client under age 60 (all taxable component)	$14,660	$10,890	$14,190	$7060	$15,840	$5,820
Client over age 60	$28,960	$17,590	$27,800	$15,770	$33,560	$17,380

Note: Assumes client starts with $500,000 in super and implements a TTR strategy to salary sacrifice up to the relevant cap and draw a pension payment to maintain net income. Compares outcome with a $50,000 concessional cap against that with a $25,000 cap. Earnings in super of 7% pa after fees and before tax of 15% in accumulation phase. Results after 2 financial years.

SMSF auditor registration program to commence from 31 January 2013

The Government has confirmed that it will fund ASIC to develop and maintain an auditor competency exam and on-line Self Managed Super Fund (SMSF) auditor registration system.

Auditors may begin to register from 31 January 2013 and ASIC will be responsible for de-registering non-compliant auditors.

The Government will also fund the ATO to police registered auditors and to refer them to ASIC for enforcement action.

The Government confirmed the cost of this measure ($21.3 million) will be offset by increases in the SMSF levy and fees charged by ASIC for sitting the competency exam.

FirstTech comment

This announcement will likely result in increased costs for SMSFs due to an increase in the annual SMSF levy and auditors seeking to pass on the costs associated with the new registration requirements. At this stage the Government has not indicated what the increase in the SMSF Levy will be.

Taxation

Capital Gains Tax

Exemptions for certain compensation payments and insurance policies from 1 July 2005

The Government has announced it will make minor changes to the Capital Gains Tax (CGT) exemptions for certain compensation payments and insurance policies with effect from the 2005-06 income year.

The changes will ensure any CGT consequences will be disregarded where a taxpayer receives compensation, damages or certain insurance policies indirectly through a trust. This will ensure that beneficiaries will have the same CGT outcome as tax payers receiving proceeds directly.

This measure also ensures that insurance policies owned by superannuation funds that were treated as CGT exempt prior to the 2011-12 Budget changes to compensation payments and insurance policies continue to be CGT exempt.

FirstTech comment

This measure confirms that any insurance proceeds received by a super fund will be exempt from CGT where they are paid to the member.

CGT loss relief for superannuation from 1 June 2012 – 1 July 2017

The Government has announced that given the potential benefits to members of industry consolidation and the possible costs for some entities transferring to MySuper that it will provide:

- From 1 June 2012 to 1 July 2017 optional loss relief for mergers of complying super funds on the same terms as the former temporary loss relief that

applied from 24 December 2008 to 30 September 2011, with some exceptions, including an optional roll-over for capital gains.
- From 1 July 2013 to 1 July 2017, an optional roll over loss relief for capital gains and capital losses on mandatory transfers of default members' benefits and relevant assets to a MySuper product in another complying superannuation fund.

FirstTech comment

The Government has confirmed that SMSFs have been excluded from the relief because MySuper requirements do not apply to these funds.

Non-resident taxation

Changes to tax rates for non-residents from 1 July 2012

The Government will adjust the personal income tax rates and thresholds applicable to non-residents' Australian-sourced income. From 1 July 2012, the first two marginal tax rate thresholds will be merged into a single threshold aligned with the second marginal tax rate threshold. This means that a tax rate of 32.5% will apply to all non-residents' taxable income under $80,000, as illustrated in Table 4. This 32.5% marginal tax rate will increase to 33% from 1 July 2015.

Table 4 - Individual tax rates for non-residents

Taxable Income($)	Tax Payable ($) – 2011-12	Taxable Income($)	Tax Payable ($) – 2012-13
$0 - $37,000	29% of each dollar	$0 - $80,000	32.5% of each dollar
$37,001 - $80,000	$10,730 + 30% of each dollar in excess of $37,000		
$80,001 - $180,000	$23,630 + 37% of each dollar in excess of $80,000	$80,001 - $180,000	$26,000 + 37% of each dollar in excess of $80,000
$180,000 +	$60,630 + 45% of each dollar in excess of $180,000	$180,000 +	$63,000 + 45% of each dollar in excess of $180,000

Increase in managed investment trust final withholding tax rate from 1 July 2012

The Government will double the managed investment trust final withholding tax rate from 7.5% to 15% from 1 July 2012. While not stated explicitly, this measure appears to only apply in situations where the residency of the recipient is in an information exchange country. Where an effective exchange of information does not exist, it appears that the existing 30% withholding rate continues to apply.

Removal of 50% CGT discount for non-residents from 8 May 2012

The Government has announced the removal of the 50% CGT discount for non-residents on capital gains accrued after 7.30 pm (AEST) on 8 May 2012.

The CGT discount remains available for capital gains accrued prior to this time where non-residents elect to obtain a market valuation of assets as at 8 May 2012.

FirstTech comment

Non-resident clients may want to obtain a market valuation for assets as at 8 May 2012 in order to benefit from at least a partial 50% CGT discount (i.e. the CGT discount will apply only to the portion of the capital gain accrued until this date).

Means testing of net medical expenses tax offset (NMETO) from 1 July 2012

People with adjusted taxable income above the Medicare levy surcharge thresholds (i.e. $84,000 for singles and $168,000 for couples in 2012-13) will be means tested. The threshold above which a taxpayer may claim NMETO will be increased to $5,000 and indexed annually thereafter. The reimbursement rate will be reduced to 10% for eligible out of pocket expenses.

People with income below the surcharge thresholds will be unaffected.

Consolidation of dependency offsets from 1 July 2012

The Government will consolidate eight dependency tax offsets into a single, streamlined and non-refundable offset that is only available to tax payers who maintain a dependant who is generally unable to work due to carer obligation or disability.

This new consolidated offset will be based on the highest rate of the existing offsets it replaces and will result in an increased entitlement for many of those eligible.

Mature age worker tax offset (MAWTO) to be phased out from 1 July 2012

MAWTO will be phased out for workers born on or after 1 July 1957. Access to this offset will be maintained for taxpayers who are aged 55 or older in 2011-12.

Increased Medicare levy low income thresholds from 1 July 2011

The Government will increase the Medicare levy low income threshold to $19,404 for individuals and $32,743 for families for 2011-12. The additional amount of threshold for each dependent child or student will also increase to $3,007.

The Medicare levy threshold for single pensioners below age pension age will also increase to $30,451.

Limit on Employer Termination Payment (ETP) tax offset for 'golden handshakes' from 1 July 2012

Under this measure, concessional tax rates on ETPs will only be available where the person's total annual taxable income (including the ETP) is no more than $180,000. Amounts above this whole-of-income cap will be taxed at marginal rates.

Existing arrangements will be retained for certain ETPs relating to genuine redundancy (including to those aged 65 and over), invalidity, compensation due to an employment related dispute and death.

FirstTech comment

This is a further change to the taxation of ETPs, following the ending of the transitional arrangements on 30 June 2012 which included allowing qualifying ETPs to be transferred into superannuation. It is unclear at this stage which ETP payments other than 'golden handshakes' are subject to this measure.

Living away from home allowance from 1 July 2012

The Government has announced it will further reform the living away from home allowance to better target people who are legitimately maintaining a second home in addition to their actual home for an initial period. The changes will stop employers from being able to give the tax concession to employees who aren't maintaining a second home, or are maintaining two homes indefinitely.

The Government has confirmed that these changes will not impact the tax concession for 'fly-in fly-out' arrangements, or the tax treatment of travel and meal allowances, which are provided to employees who have to travel away from their usual place of work for short periods.

For arrangements entered into after 7.30pm (AEST) on 8 May 2012 the changes will apply from 1 July 2012. For arrangements entered into prior to this date the changes will apply from 1 July 2014.

Schoolkids bonus from 1 July 2011

The Government will replace the Education Tax Refund (ETR) with a new Schoolkids Bonus. Eligibility for the payment will remain open to families with children enrolled and attending school who are in receipt of FTB A or other qualifying income support payments or allowances under a prescribed educational scheme that precludes the family from receiving FTB A.

The Schoolkids Bonus will be made in two equal instalments in January and July each year commencing January 2013.

As a transitional arrangement, a one-off lump sum payment to eligible families will be paid in June 2012 to replace the ETR for the 2011-12 financial year. From January 2013, these payments will be automatic and every family with a child at school will be guaranteed $410 per annum for each primary school student and $820 per annum for each secondary school student.

FirstTech comment

The proposed Schoolkids Bonus amount is greater than the maximum allowable refund previously available under the ETR scheme. Eligible families will no longer need to keep receipts to prove the education expenses incurred and will not be restricted to claiming only 50% of these expenses.

Company loss carry-back from 1 July 2012

Companies will be allowed to carry back tax losses and receive a refund against tax previously paid. Tax losses incurred in 2012-13 will be able to be carried back and offset against tax paid in 2011-12. From 2013-14 onwards tax losses will be able to be carried back and offset against tax paid up to two years earlier. Companies will be able to carry back up to $1 million of losses each year, providing an annual cash benefit of up to $300,000.

Social security and aged care

Liquid Assets Waiting Period from 1 July 2013

The maximum reserve amount for the liquid assets waiting periods for Newstart, Youth Allowance, Sickness Allowance and Austudy will be increased to $5,000 for singles and $10,000 for couples combined or those with dependants. The increase will provide those who have become unemployed earlier access to income support payments as it means that the full waiting period is not imposed until liquid assets are $11,500 for single and $23,000 for couples or those with dependants.

Family Tax Benefit (FTB) A eligibility from January 2013

Eligibility to FTB A will be limited to those students under 18 years of age or where a young person remains in secondary school to the end of the calendar year in which they turn 19. Families with children in school will be the primary target group for FTB A payments. Youth Allowance will be the primary form of assistance for those young adults 18 years and over.

Family Tax Benefit A rate increased from 1 July 2013

The maximum rate of Family Tax Benefit Part A will be increased by $300 pa for families with one child and $600 pa for families with two or more children. Single child families on the base rate will receive $100 pa, those with two or more children will receive $200 pa.

Low income FTB and Commonwealth Seniors Health card recipients not required to lodge a tax return from 1 July 2012

A flow-on effect of the tripling of the tax free threshold will be streamlined income reporting processes within the Department of Human Services. This will allow people in the $6,000 to $18,200 income range who will no longer be required to lodge an income tax return to provide estimates of their income online, via telephone or in person without providing proof of income.

Reduced payment period of Australian Government Payments for people who are temporarily absent from Australia from 1 January 2013

For most income support and family payment recipients the period of time their payment will continue to be paid while they travel overseas will reduce from 13 to 6 weeks.

For Family Tax Benefit Part A recipients, payments above the base rate will be reduced to the base rate after 6 weeks of absence.

This measure does not apply to the Age Pension as it can be paid overseas indefinitely.

Strengthening Australian residency requirements for the Age Pension from 1 January 2014

Under this proposal, Age Pension recipients who are overseas for more than 26 weeks will be paid their maximum entitlement of pension only if their Australian Working Life Residence (AWLR) period is 35 years or more, rather than 25 years as applies under current arrangements. Pension recipients with less than 35 years AWLR will be paid a proportional rate based on their AWLR period.

New income support supplement from 20 March 2013

Recipients of certain Government support payments will receive a non-taxable payment to assist with cost of living pressures. The new supplement will provide $210 pa for singles and $175 pa for each member of a couple.

Eligible Government payments include Newstart Allowance, Sickness Allowance, Youth Allowance and Parenting Payment.

Accelerated real estate review from 1 July 2012

The frequency of asset reviews for income support recipients who are most at risk of changes in the value of their real estate investments will change to once a year from every two years. This will apply to Age Pension, Disability Support Pension and Carer Payment recipients who own real estate in addition to their own home which could affect their rate of payment.

Aged care reform from 1 July 2014

The Government has reconfirmed previous announcements to reform aged care in the *Living Longer, Living Better* package on 20 April 2012.

Measures announced include:

- Introduction of a new income test from 1 July 2014 for Home Care packages – full pensioners will not pay an income tested fee. Part pensioners will pay up to $5,000 pa and self-funded retirees will pay up to $10,000 pa.
- Income and asset tests will be combined from 1 July 2014. An annual cap of $25,000 will apply to care contributions in residential aged care. Care recipients will continue to pay the basic daily care fee of 84% of basic age pension. Residents in permanent care at 30 June 2014 will not be affected by the changes.
- A lifetime cap of $60,000 will apply to homecare and residential care contributions.
- All residents who enter permanent care from 1 July 2014 will have the choice of paying for their accommodation through a fully refundable lump sum payment, periodic payments or a combination thereof.

Other measures

AFSL licence fee increase from 1 July 2012

The Government will provide additional funding to ASIC to facilitate the implementation of the Future of Financial Advice reforms (FOFA). To cover the costs, AFSL fees are increasing:

- Application fees will increase (depending on method of application) from either $287 or $575 to $1,485 for a body corporate and from either $159 or $351 to $825 for a natural person.
- Annual lodgement fees will increase from $351 to $549 for a body corporate and from $144 to $225 for a natural person.

Tax agent service regime for financial advisers from 1 July 2012

As previously announced, the Government has extended the financial advisers exemption from compliance with the Tax Agent Services Act 2009 until 30 June 2013.

The extension is to allow for details of the regulatory model to be settled and help resolve implementation issues.

National Disability Insurance Scheme from 2013-14

The Government has announced that it will provide $1 billion over 4 years for the first stage of a National Disability Insurance Scheme (NDIS). The scheme aims to provide reasonable and necessary care and support to eligible individuals based on their individual circumstances.

The Government announced scheme will initially provide care and support for up to 10,000 people with significant and permanent disability from 2013-14 and expand to support 20,000 people from 2014-15.

Previous proposals shelved

In this 2012 Budget, the Government has announced that it will not implement three measures it had previously announced in the 2010 Budget. These are:

- Reduction of the corporate tax rate to 28%. The corporate tax rate will remain at 30%.
- Standard tax deduction of $1,000 for work-related expenses and the cost of managing tax affairs.
- 50% discount for the first $1,000 of interest income.