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***2011 Budget Briefing Paper***

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# Maitland Partners 2011 Federal Budget Overview – Briefing Paper

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## Individual tax rate changes

### *Tax rates as previously announced*

There is no change from the previously announced tax rates. The rates that will apply are as follows:

#### **Residents: rates and tax payable: 2010-11 and later years**

<b>Taxable income (\$)</b>	<b>Tax payable (\$)</b>
0 - 6,000	Nil
6,001 - 37,000	Nil + 15% of excess over 6,000
37,001 - 80,000	4,650 + 30% of excess over 37,000
80,001 - 180,000	17,550 + 37% of excess over 80,000
180,001 +	54,550 + 45% of excess over 180,000

*Note: The rates above exclude Medicare levy*

### ***Flood levy introduced***

The Government will introduce a flood levy for the 2012 financial year that will apply to most taxpayers with taxable income over \$50,000. There is a shading in affect until the full 1% will apply to income over \$100,000, as follows:

#### **Flood levy calculation**

<b>Taxable income (TI) 2011-12 financial year (\$)</b>	<b>Flood levy (\$)</b>
0 - 50,000	Nil
50,001 - 100,000	$[TI - 50,000] \times 0.5\%$
100,001 +	$250 + [(TI - 100,000) \times 1\%]$

Individuals are exempt from the levy if they were affected by a natural disaster **and** received an Australian Government Disaster Recovery Payment.

### ***Want to reduce tax by distributing to minors? Will not work from 1 July 2011***

Children under 18 years of age will no longer be able to access the low income tax offset, unless the income is received for work they do.

The low income tax offset has been used to allow distributions from trusts or dividends and interest to be paid to minors so that \$3,333 is tax free. The tax free amount for 2012 and subsequent years will be \$416.

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This measure will not affect minors who are orphans or disabled, or other minors receiving money from compensation payments or inheritances.

### ***Are you a student and claim deductions against Youth Allowance payment? Gone now!***

From 1 July 2011 deductions will no longer be able to be claimed against “income” from the Youth Allowance (Student). This measure is a legislative adjustment to a High Court decision.

The expenses can still be claimed against the Youth Allowance (Student) received in the 2011 financial year.

### ***Still pay your HECS debt up front? Yes but less incentive.***

Students who pay their Higher Education Contribution Scheme (“HECS”) payments up front used to get a 20% discount. From 1 July 2012 the incentive will be reduced to 10%.

If students chose not to pay up front then a debt is created under the Higher Education Loan Program (“HELP”). If they paid voluntary contributions greater than \$500 they would get a 10% discount (ie pay \$1,000 and your debt will reduce by \$1,100). From 1 July 2012 the incentive will be reduced to 5%.

### ***The spouse will cost you more (if you claimed the dependant spouse rebate).***

The dependant spouse rebate was introduced to reduce the family tax burden when the spouse was unable to find work. This rebate will be phased out from 1 July 2011 where the spouse is aged under 40.

The changes will not affect taxpayers where the spouse is a carer, invalid, permanently unable to work, receives a Family Tax Benefit Part B or eligible for the zone, overseas forces or overseas civilian tax offsets.

### ***You need to earn more before you pay Medicare!***

From the 2010-11 income year, the Medicare levy low-income thresholds will be increased for singles to \$18,839 (up from \$18,488 for 2009-10) and to \$31,789 for those who are members of a family (up from \$31,196 for 2009-10).

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The additional amount of threshold for each dependent child or student will also be increased to \$2,919 (from \$2,865).

The Medicare levy low-income threshold for pensioners below Age Pension age will also be increased from 1 July 2010 to \$30,439 (from \$27,697). This increase will ensure that pensioners below Age Pension age do not pay the Medicare levy while they do not have an income tax liability.

### ***Still undecided on the benefits of private health insurance***

The Government will again try to legislate an income test on the 30% private health insurance rebate. These measures were previously defeated in Parliament.

If they come in the rebate will be reduced for singles with income greater than \$75,000 and families with income in excess of \$150,000.

### ***Have low income – get more in your pay packet***

The low income tax offset (“LITO”) which is usually claimed when lodging your income tax return after the end of the financial year will be partly delivered through your regular pay.

Currently 50% of the LTIO is given via reduced tax withheld in your pay packet. From 1 July 2011 the percentage will increase to 70%. You will get more in your weekly pay and less when you lodge your tax return.

Don’t kill the messenger: Tax agents will come under pressure for not being able to give “big” refunds to low income earners.

### ***Not sure of the benefits with a family? Better off despite changes.***

Changes in rates and thresholds will apply from 1 January 2012 to provide additional Family Tax Benefits (“FTB”), as well as Baby Bonus changes.

The FTB Part A will increase from 1 January 2012 for eligible children in full time secondary education or vocational equivalent as follows:

- for 16 – 17 year olds will increase by approximately \$160 per fortnight (or around \$4,200 per annum)

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- for 18 – 19 year olds by \$3,741

From 1 January 2012 the maximum eligibility aged for FTB Part A will be reduced from 24 to 21.

From 1 July 2011, families will be able to advance a maximum of 7.5% of their total rate of FTB Pt A payment, up to \$1,000.

The Family Tax Benefit and Baby Bonus thresholds will not be indexed until at least after 30 June 2014.

All too complicated? The Family Assistance Office will be able to answer your queries.

### ***We need more apprentices! Then encourage employers!***

The Government has provided additional funding to fund tax free payments to encourage apprentices in “critical trades” to complete their training.

From 1 January 2011, eligible Australian Apprentices have received an additional tax-exempt bonus of up to \$1,700 as they reach milestones in their training, including an \$800 completion bonus, bringing them to a total of a maximum of \$5,500 over the course of their apprenticeship.

## **Business tax changes**

### ***Entrepreneur's Tax Offset to be scrapped***

The Entrepreneurs Tax Offset will be abolished with effect from the 2012-13 income year. The Government sees that new small business instant write-off for the first \$5,000 of any motor vehicle will effectively replace this Entrepreneurs Tax Offset.

### ***Small business motor vehicle deduction***

The Government will provide Australian small businesses with an instant tax write-off of the first \$5,000 of any motor vehicle purchased from 1 July 2012. The Treasurer said that, for example, a tradesman on a 30% marginal tax rate, buying a new \$33,960 ute would receive an extra tax benefit of \$1,275 in the year they purchased the vehicle. The remainder of the purchase

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value can be transferred into the general small business depreciation pool, which is depreciated at 15% in the first year and 30% in later years.

The Treasurer said this new write-off was in addition to the Government's proposed tax reforms for small businesses to be introduced in 2012-13 that would allow:

- an immediate write-off of all assets valued at under \$5,000 (up from \$1,000 presently);
- a write-off of all other assets (except buildings) in a single depreciation pool at a rate of 30%. Currently, small businesses allocate assets to 2 different depreciation pools, with 2 different depreciation rates (30% and 5%); and
- a reduction in company tax rate to 29% for incorporated small businesses.

### ***Do you drive to Dubbo and back to reduce your FBT? Won't help after a flat FBT rate.***

Currently employers providing a motor vehicle can use one of 2 methods to calculate the Fringe Benefits Tax ("FBT") value. The operating cost method uses a log book and applies the "private use" percentage against the full operating costs of the vehicle. The other method (the statutory cost method) calculates the FBT value based on the value of the vehicle multiplied by the statutory rate, which is determined from the number of kilometers the vehicle travels per year.

Distance travelled	Statutory rate
Less than 15,000 km	26%
15,001 – 24,999 km	20%
25,000 – 40,000 km	11%
40,000 plus km	7%

For vehicles purchased after 10 May 2011 the statutory rate will be standardized to a flat 20% over a 4 year period. Therefore from 1 April 2014 it will not matter how many kilometers you travel in your car.

Warning: Most salary package providers work out the FBT for your package based on the statutory formula method because this is the easiest way to do it. The value of your package may not be as effective going forward. Maybe some of these providers will become more sophisticated (and have to work harder) and allow you to keep a log book to calculate the operating cost value of the benefit.

The benefits may now be higher in which case you will have a bigger reportable benefit. As a result there are potential flow on effects for some tax concessions and government assistance (eg child care rebate, dependant tax offsets, Medicare Levy surcharge, superannuation co-contributions and more)

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### ***Not for profit sector under the spotlight – Limited charity for Charities!***

There are 3 main points:

1. The establishment of a new Commission for Charities
2. Creation of a statutory definition of a “charity”; and
3. Changes to income tax concessions for Not For Profit Organisations

The Australian Charities and Not-for-profits Commission will be established effective 1 July 2012 with the initial focus on determining the legal status of organisations wanting charitable, benevolent or non-for-profit (“NFP”) concessions. The aim is to have a consistent reporting regime, as well as a national register.

From 1 July 2013 there will be a statutory definition of “charity” for the purposes of all Commonwealth laws. The aim is to provide certainty and consistency with the operations of the law and in people dealing with these organisations. Depending on this definition there may be changes to the status of some NFP organizations.

Tax concessions that currently apply to charities or NFP organisations as a whole will be changed. The concessions will be limited to activities that directly further its altruistic purpose (ie the funds generated must be applied to their charitable or altruistic purpose). The new arrangements will apply from 1 July 2011 affecting unrelated commercial activities commencing after 10 May 2011 (subject to transitional provisions). An extension of this is that the Fringe Benefits Tax concessions will not be available to unrelated commercial activities. You can have commercial activities, but the funds must be applied to the charitable or altruistic purpose and there will be an exemption for small scale activities like lamington drive fundraisers, school fetes etc.

### **Superannuation changes**

#### ***Paid too much into your super fund? Changes are at hand from the 2012 financial year***

Eligible individuals will be provided with the option to have excess concessional contributions refunded out of their superannuation funds. Refunded amounts will be taxed at the individual’s marginal tax rate, rather than paying excess contributions tax.

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Eligibility will be for a “one-off” breach made inadvertently. Implementation measures are yet to be determined.

These measures are only available for contributions up to \$10,000 (i.e. the entire amount of contributions above \$10,000 will not be eligible). The ability to apply for a refund is a one-off opportunity, only for the first year in which a breach occurs.

Explanation: Concessional contributions are generally those where a tax deduction is claimed either by the employer for the minimum 9% or personally in the case of self employed persons. The cap is currently \$25,000 for those under 50 and \$50,000 for the 2011 and 2012 years for those aged over 50 (subject to changes below). Excess contributions are taxed effectively at up to 93%.

Warning: The superannuation fund deed will need to allow for the refund of the excess contribution. Self-managed funds may need amendments to their trust deed.

### ***Over 50 and need to pay more into superannuation? You can if you have small fund balances.***

The original superannuation cap of \$50,000 for those over 50 was originally a transitional provision and expired on 30 June 2012.

From 1 July 2012 (ie after the end of the transitional period) the proposed higher concessional contributions cap at \$25,000 above the general concessional cap (ie a total of \$50,000) for eligible individuals aged 50 and over with total superannuation balances of less than \$500,000. Both these amounts will increase in \$5,000 lots based on indexation.

### ***Drawing too much out of super and reducing your account balance? You will be able to reduce the minimum pension amounts.***

With the Global Financial Crisis the value of many superannuation fund balances dropped significantly due to the share market crash. People in pension mode are required to withdraw statutory minimum amounts (calculated as a percentage of their fund balances).

The minimum pension payments from account based pensions will be reduced as follows:

- 2010-11 – 50% (i.e. a 4% minimum requirement can be reduced to 2%)
- 2011-12 – 25% (i.e. a 4% minimum requirement can be reduced to 3%)
- 2012-13 – 0% (normal requirements)

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***Want to ensure superannuation funds are acting correctly? Increase the fund levy of course.***

The Government previously announced on 16 December 2010 reforms to the Self-Managed Superannuation Fund (“SMSF”) sector including:

- Approval and registration process for SMSF auditors
- Mechanisms so that members can view their fund balances in line with that reported to the Australian Taxation Office
- Introduce a low cost default superannuation product

Funding for the initial business case and any capital related expenditure will be from an increase in the superannuation supervision levy from \$150 to \$180 commencing 1 July 2011, as well as the introduction of SMSF auditor registration fees from 1 July 2012.

***Are government co-contributions still available? Yes but no increase in threshold.***

The Government will still match contributions up to \$1,000 made from after tax dollars (ie where no deduction is claimed).

The Government will match dollar for dollar contributions where the taxpayers income is less than \$31,920. This phases out to \$61,920 where there is no co-contribution. These thresholds were frozen for the 2011 and 2012 financial years.

The budget announcement lengthens the freeze so that the thresholds for the 2013 financial year will be the same as above.

***Is your superannuation in an unknown account somewhere? Your tax file number may assist.***

There is an existing requirement for superannuation fund trustees and RSA providers to use other methods of identification to locate accounts before TFNs can be used. Effective 1 July 2011 superannuation fund trustees and RSA providers will be able to make greater use of tax file numbers (TFNs) to locate member accounts and to facilitate the consolidation of multiple member accounts.

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### ***Has your employer paid your superannuation? Just check your payslip.***

There has previously been an issue that employees have not known whether their employer has actually paid their superannuation to their nominated fund. Often the superannuation has not been paid, particularly when the employer has been in financial stress.

The Government will legislate to ensure that employees receive information on their payslips about the amount of superannuation **actually paid** into their account. Employees and employers will also receive quarterly notification from their superannuation fund if regular payments cease, with effect from 1 July 2012.

Warning: Business owners using software packages to generate pay slips will need to ensure that this will comply with the new requirements.

There is still however a gap between what the employer may say has been paid and the amount the fund receives and the timing of that receipt.

### ***Is your superannuation fund a share trader? It will not be much longer.***

From 10 May 2011 all gains and losses for specified assets (primarily shares, units in a trust and land) will now be subject to CGT. The government will achieve this by removing the trading stock exception to the “capital gains tax (“CGT”) primary code rule” for superannuation funds. Some super funds have previously sought to treat these assets as trading stock with the ability to offset losses against other forms of income (other than capital gains). There will be transitional rules applying for existing trading stock, which will remain unaffected.

## **Changes previously announced**

### ***Change in tax rates***

Whilst there is no change in the tax rates as such, the Flood Levy will apply from 1 July 2011, giving the following tax rates (including the flood levy)

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The current resident tax thresholds and those applying for the 2011-12 financial year (for those subject to the flood levy) are:

### ***2011-12 (for those subject to the flood levy)***

<b><i>Taxable income (\$)</i></b>	<b><i>Rate (%)</i></b>
0 - 6,000	0
6,001 - 37,000	15
37,001 - 50,000	30
50,001 - 80,000	30.5
80,001 - 100,000	37.5
38	
46	

*Note: The rates above exclude Medicare levy and do not apply if the person is exempt from the Flood Levy.*

### ***Small business assets immediate write off provisions still a year away***

As announced in the 2010 budget small businesses (ie with a turnover less than \$2.0 million) will be able to claim an immediate write off of depreciable assets costing less than \$5,000. In addition, the long life pool will be removed so that all depreciable assets will go into the general pool and depreciated at 30% of the opening written down value (15% in the first year).

For the 2012 financial year the immediate write off is for assets less than \$1,000 and depreciable assets will be allocated to either the general or long life pool and written off at 30% and 5 % respectively.

Warning: This should not be confused with buildings and structural improvements which are generally not plant and equipment that are subject to a building allowance claim generally at 2.5%.

### ***Reduction in the company tax rate***

Small business companies will have the reduced company tax rate of 29% from 1 July 2012 with all other companies accessing the reduction from 1 July 2013.

Warning: Investment companies, corporate beneficiaries or other companies not carrying on a business will not have access to the reduced tax rate until 1 July 2013 despite their turnover being less than \$2.0 million.

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### **Want to know the technical tax changes? Or leave it to Maitland Partners.**

A summary of the changes are as follows:

***Company loss recoupment*** – the rules will be amended to make it easier for the continuity of ownership test to be satisfied in certain circumstances.

***PAYG instalment adjustment*** – There will be a one off one year adjustment to PAYG instalments for the 2012 financial year to reduce the instalment amount calculated by the ATO.

***Infrastructure projects losses***– Certain projects of national significance will have concessional eligibility provisions applied to them to make them a more attractive investment.

***Tax relief for water reforms***– Measures will apply to provide Capital Gains Tax (“CGT”) and capital allowance rollovers associated with water reforms so that tax does not become an impediment in the implementation of the schemes.

***Farm management deposits*** – Primary producers affected by natural disasters will be able to access their Farm Management Deposits within 12 months of making the deposit and still retain the concessional tax treatment.

***Foreign currency account rules changes*** – Certain trusts or partnerships that effectively use a foreign currency operating account will be able to calculate the net income by reference to that currency. This will simplify the application of some of the strict reporting and foreign currency translation requirements.

***Debt/equity rules changes***- Changes will be made to relax the integrity provisions on certain transactions between connected entities and extended some of the timing for the transitional provisions.

***General interest charge*** – Provisions will be adjusted to ensure that the general interest charge on late or short payment of tax will continue after 1 July 2010.

***Company phoenix activities targeted*** – Tax laws will be strengthened to increase the director’s personal liability in circumstances where a director fraudulently accumulates debts in a company, liquidated the company and transfers the business to a new entity (AKA phoenix arrangement)

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***Securities lending arrangements*** – Lenders will not be treated as having disposed of a security in certain circumstances resulting from the borrower’s insolvency.

***Reporting taxable payments*** - The Government will require certain businesses to report annually on payments made to contractors in the building and construction industry. The information should already collected under existing tax arrangements.

***No luxury car tax for public museum purchases*** – Endorsed public museums and galleries will be able to import luxury cars without paying the Luxury Car Tax. This ensures that these type of organisations will be exempt from tax including Customs Duty and GST (in line with international treaty obligations).

***Reporting Government grants*** – More sophisticated data matching techniques will be implemented to ensure that the ATO can monitor and trace Government grants and payments made to ensure they are correctly treated from a tax perspective.

***Scrip for scrip integrity changes*** – changes will be made to the integrity provisions that apply to individuals and companies to ensure that they also apply appropriately to trusts, superannuation funds and life insurance companies to ensure consistency with their application.

***Small business concessions on trusts*** – Amendments will be made so that trusts cannot avoid being treated as a connected entity, which will allow more eligible taxpayers to access the small business tax concessions.

***Main residence exemption for special disability trusts*** – With effect from the 2007 financial year special disability trusts will be able to access the main residence exemption for Capital Gains Tax purposes.

### **Changes yet to happen**

#### ***Improvement to trust distributions***

The Government has introduced legislation to allow streaming of capital gains and franked distributions. This will allow a discretionary trust to distribute these types of incomes to specific beneficiaries.

Warning: These changes are not automatic. Your trust deed must allow for the distinction and distribution of different types of income.

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### *Trusts low tax schemes targeted*

The Government aims to introduce additional anti-avoidance provisions to prevent the use of tax exempt entities to reduce the overall tax paid on trust income when distributed.

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