

# CONTACT

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## 2010/11 Federal Budget *and the Henry Review*

Ray Cummings, Executive Director –  
Tax Consulting, Melbourne

May 2010 should have been a big month for tax given the Government's response to the Henry Review and the 2010/11 Federal Budget. However, the Federal Government's commitment to tax reform is still in question following both of these events. Whilst Wayne Swan described the budget as workman like, it could perhaps be regarded as pedestrian and unimaginative to others.

The good thing about the Budget from a tax perspective is that it does not appear to contain any major tax nasties. The bad thing is that it seems to provide nothing for business, even though the Government is pushing the eventual corporate tax rate reduction as a key initiative to business.

It is worth bearing in mind that the reduction in the corporate tax rate from 30% to 28% does not phase in until the 2013 financial year for small businesses and 2015 for other businesses. The fact that these corporate tax rate cuts are three years out means there is no incentive to drive investment or stimulate business behaviour. The other key changes apart from the resources super profits tax, are changes to the write off of capital assets by small businesses

(defined as those with a turnover of less than \$2m) providing an immediate write off for items less than \$5,000 and to provide a 30% write off for all other items.

The investment savings incentives will provide a savings boost for many individuals. In broad terms, providing a 50% discount on interest income of up to \$1,000 places interest income on the same after tax basis as dividend income or capital gains. In substance, a top marginal rate tax payer receiving \$1,000 of interest income will obtain something in the order of \$750 after tax.

The Government announced acceptance of most of the Johnson Report recommendations in relation to the establishment of Australia as a financial services centre. These recommendations include elimination of withholding tax on

interest for Australian branches of foreign banks and also proposed changes to the taxation of managed funds to encourage international investment. Whilst these proposals are welcomed, they do not have broader impact and business could well benefit from more widely targeted measures such as cutting the corporate tax rate sooner or providing broader investment or research and development allowances.

The increase in superannuation guarantee changes will provide a retirement boost for many Australians but the rate does not phase in to 12% until 2018.

Whilst the Government could be excused for not being able to afford any broader

*(continued on page 2)*

## 2010/11 Federal Budget and the Henry Review *(continued from page 1)*

incentives for business given the current state of the economy, this does not quite add up given the Government's economic forecasts are projecting a return to much better economic circumstances in the foreseeable future. The economy is expected to return to surplus in 2013 which is three years sooner than the Government forecast last year. Cynics would suggest that this is not because of good economic management, but rather because the economic forecast from last year was so wildly wrong.

What is clear from the forecast is that economic conditions are anticipated to improve but business is still in for some challenging times.

### Henry Review

The Government's lack of response to the Henry Review can, at best be described as disappointing. The Henry Review contained 138 recommendations, and was meant to be a 'root and branch' review of the Australian Taxation System. The Government adopted a mere handful of the recommendations, rejected around 30 and did not comment on over 100 of the recommendations. The Government sees Tax Reform as a ten year plus agenda.

Whilst not all of the Henry recommendations would receive broad community accolades, the Australian community deserves a better response to such a review than the one the Government has provided. To date, \$10m of tax payer money has been expended on the Henry Review and another \$65m has been committed to Treasury over 4 years to help develop and implement the Government's response to Henry. Many of us thought this had already occurred.

There are many areas, such as reducing compliance and simplifying CGT, where improvements could be made easily and without significant cost to the Revenue and we will contribute to lobby for changes in these areas.



Feature

# America in Just one of the glob

### Together with a group of institutional investors from Australia, I have just returned from a most interesting global investment conference in New York.

The economy in the US is now in the rehabilitation stage after the peak of the Global Financial Crisis has passed. All the consequences of the massive de-leveraging are evident – persistently high unemployment, continued home foreclosures in still weak housing markets, anaemic private consumption and investment, an overburdened public sector and failed local banks still being closed down on a regular basis.

Officials from the US Federal Deposit Insurance Corporation have closed down more than 80 banks so far this year, arriving on a Friday afternoon after business hours and closing down the bank or arranging new ownership. There are 800 more banks on the FDIC watch list and more than half of these are expected to be added to the list of failed banks. The Corporation would go faster in their closures, we were told, if they had more trained staff to do the work.

I have visited New York eight times over the last 30 years and I have never seen as many empty shop fronts though it must be said that many theatres and restaurants are still full. Maybe they were full of Australians travelling on a strong Aussie dollar?

We heard a fair degree of optimism being expressed by US money managers and it is true that the financial sector is making money again, but the prospects for future growth in the financial sectors when the price of money stops being artificially held down are less certain.

The Dodd Bill proposing financial markets re-regulation is attempting to achieve that elusive balance between providing protection and stability in financial markets while still allowing and indeed encouraging innovation.

While 35 or so large financial institutions may become 'too big to fail' and while the multi trillion dollar derivatives industry might finally be monitored, re-regulation could come at costs to innovation and risk-taking.

All in all, the rehabilitation process for the developed market economies such as the US whose finance sectors swelled out of



# Rehab al opportunities

Sue Dahn,  
Executive Director - Investment Advisory  
Melbourne.

all proportion during the last 10-15 years could be expected to take 4-5 years on current indications.

Having said that, demographics for the US are, as they always have been, a tailwind for recovery. Over the next 40 years the population will grow to 400 million and they will be relatively young. American fertility is 50% higher than Russia, Germany or Japan and much higher than China. Young Americans are very family oriented and are having larger families.

In addition the US remains a magnet for immigrants who have historically started a quarter of new businesses, the US invests a third of the world's R&D spending and US workers are nearly 10 times as productive as Chinese workers. And the US excels at providing the kind of products and services that people from all over the world wish to consume as they become more affluent. We know for example that 70% of the revenue for Avatar has come from non-US locations and I also speak from personal experience as I fell in love with the new Apple iPad and can't wait till they are released here so I can buy one!

Like us, many US commentators are wary about the immediate economic and investment prospects in Europe. Some

however believe the concerns are overdone and that the powerhouse economies of Germany and France with their strong global footprint, export tailwind from a weak Euro and new found willingness to strengthen the Euro pact will ultimately emerge relatively well from the crisis.

*Almost everyone agrees on the opportunities for investing and doing business in developing and emerging markets and even in the so called frontier countries.*

Obvious among these are Brazil with a strong resource and commodity based economy and China with its need to get rich pretty quickly to deal with its potential demographic crisis of an ageing population. It was fascinating to learn about the technology transfer underway in that country and the real reasons for shutting out Google! Emerging and frontier economies are obviously not without increased risks, but after all, risk is what entrepreneurs and investors are always prepared to take in return for commensurate returns.

The globe is emerging from a severe financial crisis. It will not be the last financial crisis by any means. However, the combination of improved regulation and the ability of capital to flow freely to productive and profitable business and investment opportunities will once again see good returns available across asset classes.

The speed and magnitude of the financial markets recovery to date though does mean that the market based trade is pretty much over, and active investment selection should be the order of the day. Opportunities do exist across the equity, property, fixed interest and cash asset classes for attractive risk adjusted returns. At present developed market equity with global exposure, emerging market equities and investment grade credit are just some of those global opportunities.

*Disclaimer: This article should not be taken as either general or personal advice and it should not be relied upon in making investment decisions.*



# Superannuation Guarantees

## Are you paying enough superannuation?

**Brad Twentyman**  
Director – Superannuation, Melbourne

**With the announcement that compulsory superannuation is on the rise to 12% and the Tax Office specifically targeting superannuation guarantee compliance, confirming that you are paying the right amount of super for your employees is becoming increasingly important.**

It sounds simple. The reality though is that calculating super obligations can be a complex issue. It requires consideration of the law relating to compulsory superannuation and also a thorough analysis of the workplace arrangements applying to each of your employees.

The good news is that determining whether you are paying enough superannuation is easier than it was following earnings base simplification commencing 1 July 2008. Today, determining whether you are paying enough superannuation only requires correctly determining your employee's ordinary time earnings.

Provided you can identify and understand ordinary time earnings, you will be able to establish what your minimum contributions should be and match this against the way your payroll system calculates super.

It is important that you get your superannuation contributions right because penalties for under or late payment are severe. Penalties include paying the contributions anyway, paying additional interest as compensation to the employee and paying an administration charge to the Tax Office. The biggest penalty however is probably the loss of tax deductions for your contributions.

As an aside, the compulsory superannuation system works quite differently to the taxation system. Liability to superannuation penalties apply automatically and an employer only reduces its liability to these penalties by making sufficient contributions within required timeframes.

The following discussion concentrates on how to determine if you are meeting your minimum obligations under the Superannuation Guarantee (Administration) Act 1992. It is possible that an award or agreement applying to your employee may require contributions above the minimum required under superannuation law.

### Ordinary time earnings

So what are ordinary time earnings? This is where it may start to seem complicated.

Broadly, the ordinary time earnings of your employee will be the total earnings paid to them in respect of their ordinary hours of work. Before you can determine your

employee's ordinary time earnings then, you need to determine the employee's ordinary hours of work.

### Ordinary hours of work

Commonly, ordinary hours of work are specified in an industrial award and/or enterprise agreement applying to your employee.

If your employee is not covered by an award or agreement, it may be possible that ordinary hours have been agreed somewhere else, for example through an employment contract.

If ordinary hours are not specified anywhere, then they will comprise the normal, regular, usual or customary hours worked by the employee. In these circumstances, ordinary hours will generally be interpreted as all hours worked by the employee.

### Earnings in respect of ordinary hours

Having established your employee's ordinary hours of work, it is possible to calculate their earnings in respect of ordinary hours (ordinary time earnings).

As a general rule, what you pay your employee for working ordinary hours across a financial quarter will be the employee's ordinary time earnings.

There are a number of areas where you need to carefully consider whether amounts you are paying your employee are ordinary time earnings or not. A good reference is

included in Superannuation Guarantee Ruling SGR 2009/2 issued by the Tax Office.

To help clarify the concept of ordinary time earnings, consider why overtime pay does not attract superannuation.

Overtime is paid for working outside of stated ordinary hours. While overtime pay would be earnings of the employee, the earnings are not in respect of the employee's ordinary hours of work.

Be careful determining whether payments relate to work performed for ordinary hours or not. It is easy to make assumptions that because someone is being paid above the standard rate of pay, that work is overtime and outside superannuation. However, the employee's ordinary hours may not be defined in workplace arrangements meaning overtime hours would not exist. Similarly, a higher rate of pay may relate to a loading, such as a shift loading, but still represent earnings in respect of ordinary hours.

Another area requiring close attention is allowances. When paying allowances you need to determine if the amount represents an additional component of earnings or if it is really a reimbursement of an expense you would reasonably expect the employee to incur. In the latter, the payment is not ordinary time earnings as it is an expense reimbursement rather than earnings.

### Summary

Determining your minimum superannuation obligations can certainly appear daunting and situations will arise where you may need to seek further advice.

But armed with a thorough understanding of what constitutes ordinary time earnings, in most instances you will be able to establish what your minimum contributions should be.

*Disclaimer: The information in this document is purely factual in nature and does not constitute advice.*

Dr Richard Shrapnel,  
Director – Strategy & Organisation, Melbourne

# Understanding your competitors

It almost goes without saying that to be successful in business you must know your competitors well. However, this requires a lot more than simply listing your competitors.

The starting point is being able to define the boundaries of your market and the forces at work within those boundaries – see the previous issue of *Contact*. By clearly defining your market boundaries, you will be able to identify your competitors within those boundaries.

Once you have listed the competitors in your market, you should segment and rank them (by size and market share) within those segments. Markets can usually be broken down into different segments that reflect attributes of the market. The attributes may be something as simple as price or product features and will help you identify your true competitors. For example, if you aim for the top end of the market selling a premium product with a price to match you probably don't compete head on against another company that aims for the bottom end of the market with low prices and high volumes.

Having listed, segmented and ranked the competitors in your market, list the criteria against which you believe they should be evaluated (from the consumers point of view). You may end up with a list that includes attributes like price, quality, service or brand. Again try to rank these from most important to less important, and then give each competitor a score out of five under each criteria. As this is an important task, ask people from within and outside your enterprise to perform this analysis and compare results.

The combined analysis will give you an evaluation of the offering of each competitor in the market, and an assessment of how each competitor has chosen to compete in their market segment. This will assist you in deciding how you should compete in the market by highlighting the strength and weaknesses of your competitors.

In the next edition of *Contact* we will look at how to position your business based on the findings of the competitive landscapes.

Drawing your competitive landscape:

- Define your market boundaries
- List the competitors within those boundaries and the market segments they focus on
- Rank your competitors by market share within those segments
- List the criteria against which they should be assessed
- Give them a score out of 5 for each criteria
- Draw a map of your market.

## Client Profile

Established by WA inventor and entrepreneur Tom Rudas to develop a solution to household waste recycling, AnaeCo Limited ('AnaeCo') is now at the forefront of the waste management services industry, having pioneered a new approach to solving global solid waste problems through the application of leading edge technology for the processing of municipal solid waste.



Julie Strack,  
Director – Taxation, Perth

# AnaeCo Limited

AnaeCo Limited, a public company listed on the ASX, delivers Alternative Waste Technology (AWT) facilities based on the patented DiCOM bioconversion process. The system has patent protection in several countries over the core DiCOM bioconversion process, and the related aeration process. The system incorporates advanced sorting, recycling, anaerobic digestion and aerobic composting to recycle municipal solid waste into renewable energy from biogas, agricultural grade compost and recyclables such as steel, aluminum, glass and plastics, thus ensuring maximum diversion from landfill and ensuring social, economic and environmentally sustainable management of MSW.

The DiCOM process enables resource recovery intervention closer to source, with enhancement of existing waste transfer stations now a viable waste management option. AnaeCo's experienced team provides design, construction, commissioning, operation and maintenance services for DiCOM AWT facilities, as well as management of all outputs including renewable energy, compost, recyclable materials and non-recyclable residuals.

The DiCOM process is a complete solution to the global challenge of environmentally responsible MSW management and offers benefits over existing Mechanical Biological Treatment (MBT) processes in its ability to integrate with the established urban environment.

"There are a number of Alternative Waste Treatment technologies coming to the market at the moment," explains Tom Rudas. "DiCOM has a number of competitive advantages. Through DiCOM we're able to divert 80% of the waste stream away from landfill by separating out recyclables and converting the organic fraction into biogas and compost. The biogas is used to generate renewable energy as electricity and the compost is sold to the horticultural/agricultural markets. A major advantage of DiCOM is the efficiency of the bioconversion process. The hybrid aerobic/anaerobic process takes place inside a closed vessel, where the conditions for bacterial activity are optimized. This process efficiency means it only takes 21 days from the receipt of MSW to complete a batch cycle producing biogas and compost. The closed vessel also means odour can be contained very efficiently.

Another major advantage is that our facility doesn't require lots of space. Our very first facility is at the Shenton Park waste transfer station – the place where household rubbish has been transferred into trucks before being taken off to landfill. The whole process can be retrofitted onto an existing waste transfer station. This small footprint solution makes DiCOM very acceptable to local communities and the councillors they elect, and is far more land-efficient than most competing technologies. All of this can be achieved for a cost that is no greater than the cost of the landfill disposal for most Australian metropolitan councils."

AnaeCo's DiCOM System has been developed and tested for more than seven years in collaboration with university and Government agencies.

In 2010, AnaeCo plans to build Stage 2 of the DiCOM facility at Perth's Western Metropolitan Regional Council which will triple its capacity. Following on from the proven demonstration of the technology at the WMRC project, AnaeCo is actively working on commercialisation activities in Australia and internationally.

AnaeCo has also developed strategies to commercially exploit its intellectual property in the broader market and not just restrict the application to DiCOM product development. Many of these patented technologies can be applied to directly enhance existing biological methods of organic waste bioconversion and commercial exploitation will be achieved through licensing arrangements.

Pitcher Partners has had a relationship with AnaeCo since 2007.

Julie Strack, Taxation Director, Pitcher Partners Perth, has overseen the provision of transactional advice to the company, in the areas of GST and CGT.

Pitcher Partners Perth also assists the company with its general corporate tax compliance obligations.

Pitcher Partners is delighted to be involved with an organisation that is at the forefront of the waste management services industry and is on its way to becoming a world recognized innovator in the conversion of municipal and industrial solid waste to high value resources.

# Baker Tilly International

## – the year in review

*Pitcher Partners is an independent member of Baker Tilly International, a global network of high quality, independent accountancy and business services firms.*

*Below is an extract from an address to member firms by Geoff Barnes, CEO and President, Baker Tilly International Limited, in the Baker Tilly International Global Annual Review.*

“In my business life I cannot recall a period of greater volatility than we have seen in the past year. Markets moved quickly and few countries escaped the domino effect that swept across the world’s financial centres.

It is in testing times that businesses show their mettle. Baker Tilly International recorded combined revenues of US\$3.13bn at a time when many organisations struggled to adapt to the rapidly changing environment. Our comparatively strong performance owes much to our strong vision and strategy, as well as our international reach.

For many of our member firms this year has meant managing their businesses somewhat differently. Each has done so with an eye on building for the future, positioning themselves to handle a global pickup in demand for our services as the eventual recovery gains momentum.

Strong and sustainable businesses are characterised by committed and effective leadership at all levels of the organisation. Recognising this, we invested significantly in our leadership capital this year through the Baker Tilly International Leadership Development programme. This programme represents an important long-term investment in developing our

industry’s leaders in the years to come, and reaffirms our belief that our people are our differentiator in delivering a positive and superior client service experience.

The recession not only impacted our clients’ growth, but fundamentally changed the way many do business and, as a result, the way we work with them. In times of uncertainty, clients demand reassurance of the quality of their advisors just as much as they do in the good times, if not more. Our commitment to building a global network of quality firms and our collective commitment to deliver the highest standards of personal and professional conduct remain unchanged.

Although we are seeing the first signs of economic recovery, the effects of the recession continue to be felt across every aspect of business and will no doubt continue to be so for the foreseeable future. I expect 2010 to be another challenging year – a year dominated by a competitive marketplace and one in which the focus on corporate risk will remain high on the agenda.

While we will certainly be tested, it is an exciting time to be leading a professional services network. I look forward to helping our members and their clients successfully meet the challenges ahead and deliver on their objectives, and to ensuring that the network remains a major force in global public accounting.”

### Pitcher Partners launches Cross-Border Advisory Practice

Pitcher Partners has a growing number of clients seeking to spread their wings internationally. To meet this growing demand, Pitcher Partners has launched a Cross-Border Advisory practice.

The practice includes not only business advisors with a strong expertise in establishing businesses in overseas markets, but also international tax advisors with expertise in cross-border tax structuring, planning, reporting and risk management.

In the process of setting up this new practice, we have formed collaborative relationships with strategic partners and service providers such as banks, law firms, Austrade and local industry specialists to make it easier for our clients to enter new markets.

Within the Cross-Border Advisory Practice, we have created a dedicated India advisory team consisting of specialists with a strong understanding of doing business in India, to keep pace with the rise of the Indian economy and the subsequent volume of inbound and outbound transactions between India and Australia. Our team is able to assess the opportunity for doing business in India, leverage a network of local relationships to find suitable collaborators and business partners and help clients to build a sustainable business.

For more information contact:  
**Rohini Kappadath,**  
**Head of Cross-Border Business,**  
**Melbourne**

## Advocacy

**Pitcher Partners working with legislative bodies to bring about fairer legislation for our clients**

Pitcher Partners’ Technical Partner (Accounting & Audit) Dianne Azoor-Hughes, was invited to join a Task Force of the International Auditing & Assurance Standards Board in early 2009. As a Task Force member Dianne actively contributes to the revision of existing assurance standards and other related services, representing the needs of middle market clients in Australia and their trading partners in the Asia-Pacific region where there is exceptional economic growth.

# What's New

## New Partner Announcements

We are pleased to announce our new Partners:



**John Ross**  
Tax Consulting  
(Sydney)



**Nick Bull**  
Business Assurance &  
Advisory (Melbourne)



**Daniel Byrne**  
Business Advisory  
(Melbourne)

## Independent price expert appointed from Pitcher Partners Sydney

Australian Amalgamated Terminals (AAT) has appointed, with the approval of the Australian Competition and Consumer Commission, an independent price expert – Deborah Cartwright of Pitcher Partners Sydney.

The AAT operates as a multi user facility provider to the stevedoring industry in Australia and operates terminals in all major Australian ports except Fremantle. The AAT provides facilities and access to stevedores holding licenses for AAT terminals. The AAT operates terminals with facilities for importing and exporting motor vehicles and general cargo at its various facilities. Deborah's role is to act as an expert not an arbitrator and all decisions made by her are binding and final.

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For comments on this edition or if you wish to be removed from the *Contact* mailing list please email us at [editor@pitcher.com.au](mailto:editor@pitcher.com.au)

## Tax Diary – July, August & September 2010

### 14 July 2010

PAYG Payment Summaries to be provided to employees, company directors and office holders.

### 21 July 2010

Lodgement and payment of June 2010 monthly BAS/IAS.

Lodgement and payment of fourth quarter PAYG instalment activity statement for head companies of tax consolidated groups.

### 28 July 2010

Lodgement and payment of fourth quarter superannuation guarantee contributions.

Lodgement and payment of the third quarter BAS/IAS.

### 14 August 2010

Lodgement of PAYG Withholding Payment Summary – Annual Report.

### 21 August 2010

Lodgement and payment of July 2010 monthly BAS/IAS.

### 21 September 2010

Lodgement and payment of August 2010 monthly BAS/IAS.



Pitcher the difference

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