

2011 Federal Budget Report

About CDTL Corporate Accountants

CDTL is a specialist corporate accounting and business advisory firm, with offices in Australia and the UK. The firm's partners are highly experienced and educated Chartered and CPA accountants. The firm specialises in the provision of accounting, audit, tax and corporate finance services to the small to middle market entities.

CDTL Corporate Accountants is a proud supporter of St Michael's Golf Club's junior golf program and 50 Club. The program is run by John Serhan (Head Teaching Professional St. Michael's GC, AAA PGA Accreditation) and Jeff Wagner (Director of Golf, St. Michael's GC and Former Australasian PGA Touring Professional & PGA Member).



Peter Fowler (Australian Professional Golfer), John Serhan (Head Teaching Professional St. Michaels GC, AAA PGA Accreditation) with St Michael's GC juniors.

Further information is available from the following web links:

www.cdtl.com.au/junior-golf.htm

www.stmichaelsgolf.com.au

Coal Report

CDTL Corporate Accountants authors an independent bi monthly report on the Australian Coal sector. The report is a must for all super funds and investors, it provides readers with a summary of the industry, corporate activity and a market update on listed companies within the industry. Our readers include super fund members, investors, coal and mining industry leaders, members and ministers of Australian Parliament.

Coal Facts

- Coal is used for approximately 30% of the world's energy consumption
- Demand for coal is expected to increase to over 60% of the world's energy consumption by 2030
- Australia is the world's largest coal exporter
- Black coal is Australia's largest export worth more than \$50 billion AUS

Further information is available from <http://www.cdtl.com.au/coal-report.php>

EXECUTIVE SUMMARY

2011-12 Federal Budget: \$45.7bn deficit

On 10 May 2011, the Treasurer Mr. Swan handed down the 2011-12 Federal Budget, his 4th Budget.

Economic outlook

For 2010-11, the deficit is estimated to be \$45.7bn, with the estimate for 2011-12 of a \$20.3bn deficit. The Treasurer said the Government "can return the Budget to surplus in 2012-13, despite recent natural disaster", and he predicted a surplus of \$3.5bn in 2012-13.

The Treasurer said the floods and Cyclone Yasi will cost the economy \$9bn in lost output and reduce real GDP growth by 1/2 of a percentage point in 2010-11. Mr. Swan said the impact of disasters in New Zealand and Japan will increase this impact to 3/4 of a percentage point this year.

Mr. Swan also said that tax receipts had been revised down by \$16bn over the first 2 budget years, taking the total estimated revenue loss from the GFC to around \$130bn over 5 years. The Treasurer forecast an underlying cash deficit of \$22.6bn (1.5% of GDP) in 2011-12.

In the longer term, the Treasurer said the outlook for the economy in the years ahead is "very bright and Australians have good cause to be optimistic". He said the economy is forecast to grow at an "above-trend rate over the next 2 years, driven by an investment surge in the resources sector". Mr. Swan said real GDP growth is forecast to increase to 4% in 2011-12 and 3.75% in 2012-13.

Revenue measures announced

The major revenue measures proposed in the Budget included:

- significant tax changes affecting charities
- superannuation: excess super contributions tax problem addressed; concessional contributions; minimum pension drawdowns - 25% reduction
- Govt overcomes High Court Anstis decision on self-education expenses
- small businesses to get tax deduction of \$5,000 for motor vehicles
- FBT valuation method for cars to be one rate - 20% (phased in over 4 years)
- amendments re company loss recoupment rules
- minors will no longer be entitled to low income tax offset on unearned income
- CGT amendments: scrip-for-scrip rollover; small business tax concessions; main residence exemption; trading stock; incentives for renewable resources; rollovers for amalgamations of indigenous corporations
- GST amendments: property in possession of mortgagee; supplies to health insurers; instalment system for small businesses
- increase in Medicare levy thresholds
- dependant spouse rebate for under 40s to be phased out
- debt/equity rules to be amended
- early access to be allowed to Farm Management Deposits.

Budget seeks to harness mining boom, avoid inflation risk

The Budget sets a course for a small surplus in 2012-13, while seeking to alleviate labour shortages that threaten to fuel inflation as Australia rides an historic Asia-led resources boom.

Treasurer Wayne Swan said Australia, the only major developed nation to avoid recession during the global financial crisis, now faced major hurdles in handling the biggest resources boom in its history, a soaring Australian dollar and a 2-speed economy which has left non-mining industries struggling. "With the investment pipeline ramping up and unemployment falling, the boom will test our economy and our workforce, and price pressures will re-emerge," Swan told Parliament in delivering the 2011-12 budget.

Deficit envy

"Our public debt is a tiny fraction of that carried by comparable economies, our fiscal position the envy of the developed world," said Swan. The Treasurer predicted the deficit would total \$49.4bn in 2010-11 - 3.6% of GDP - then more than halve to \$22.65bn in 2011-12 before hitting a surplus of \$3.5bn in 2012-13, in part with the aid of a planned mining tax. Australia's 2011-12 deficit is projected at 1.5% of GDP, well below the 10.8% forecast for the United States and the 8.6% expected for the United Kingdom. The government capped spending growth at 2% in 2011-12, but this comes as its economic stimulus packages during the global financial crisis come to an end and it will be more difficult to keep spending down in future years. Any major fall in commodity prices or a sustained appreciation in the local dollar could threaten Australia's narrow 2012-13 surplus forecast, say economists.

Australia's economy is forecast to grow by 4% in 2011-12 and 3.75% in 2012-13, after recovering from a series of natural disasters in 2011 which chopped 0.75% off growth. Many of Australia's major miners, like BHP Billiton, Rio Tinto Ltd and Xstrata, were forced to curb iron ore and coal mining and exports after floods and cyclones flooded pits, damaged transport lines and closed ports. Australia is the world's biggest exporter of iron ore and coking coal. Its biggest miners have placed big bets on the commodities boom, committing over \$130bn over the next 5 years.

Jobs

Australia's economy is benefiting from a record terms of trade and climbing dollar - up 19% in the past year to A\$1.07 to the US - but it has created a "two-speed" economy. Mining investment will rise to \$76bn in 2011-12, benefiting the resource dependent states of Queensland and Western Australia, but the sector employ less than 2% of Australia's workforce. "For some talk of an investment boom seems divorced from reality. Wages are growing, yet many live pay cheque to pay cheque. Not every region prospers," Swan said.

Economists say Australia's mining boom is masking the state of the real economy, with weakness becoming entrenched in key sectors such as retail, housing and construction. The non-mining sectors make up 90% of the economy and struggling with rising interest rates, the high dollar, rising oil prices and a fall in consumer confidence. In the past year, 300,000 jobs were created and the

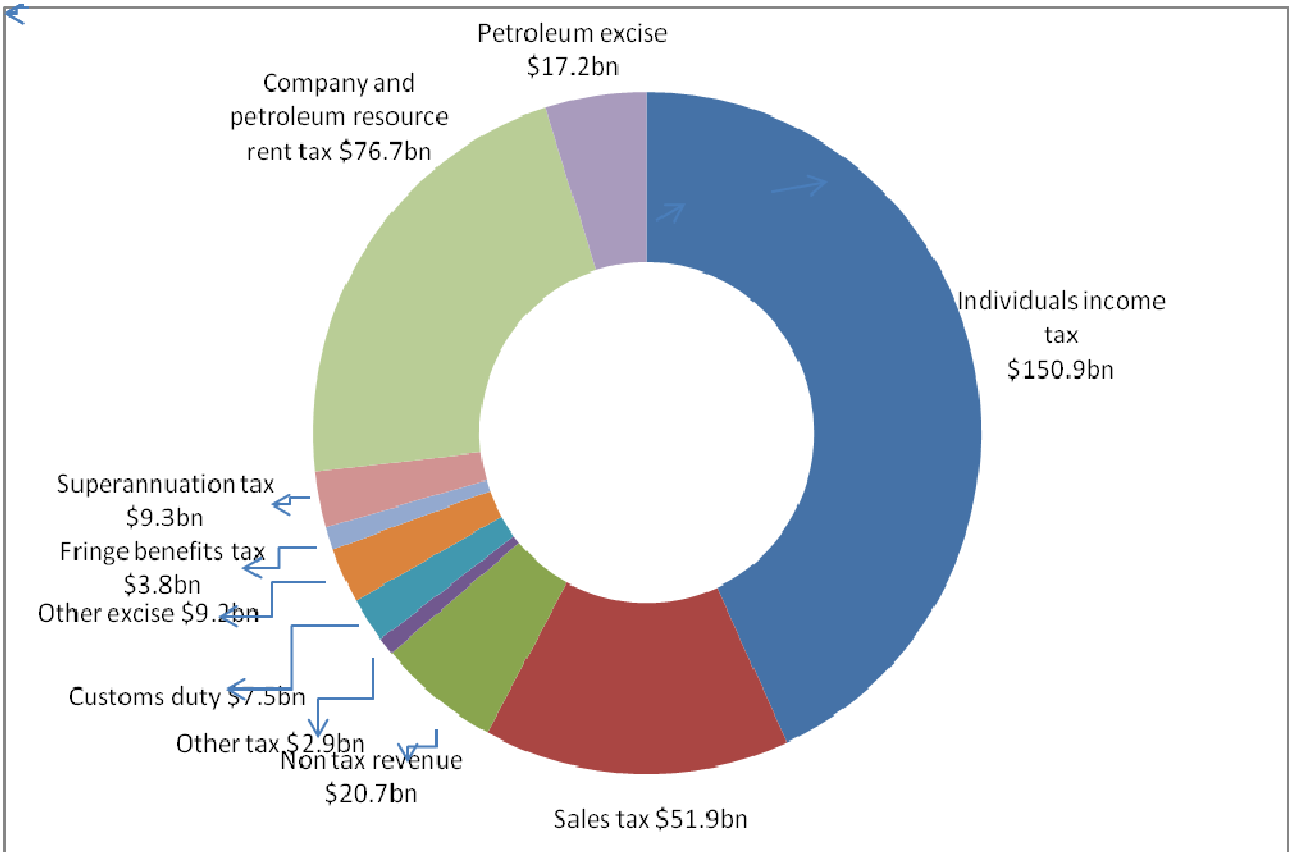
unemployment rate was forecast to fall further to 4.5% by mid-2013, creating another half a million jobs, said Swan. "The centerpiece of this budget is jobs, jobs and jobs," he said. But total skilled migration will only rise by 10,000 to 125,850 in 2011-12 and net migration will be static at around 180,000. The government's own employment department has said Australia needs almost 1.3m workers by 2015-16.

Budget documents

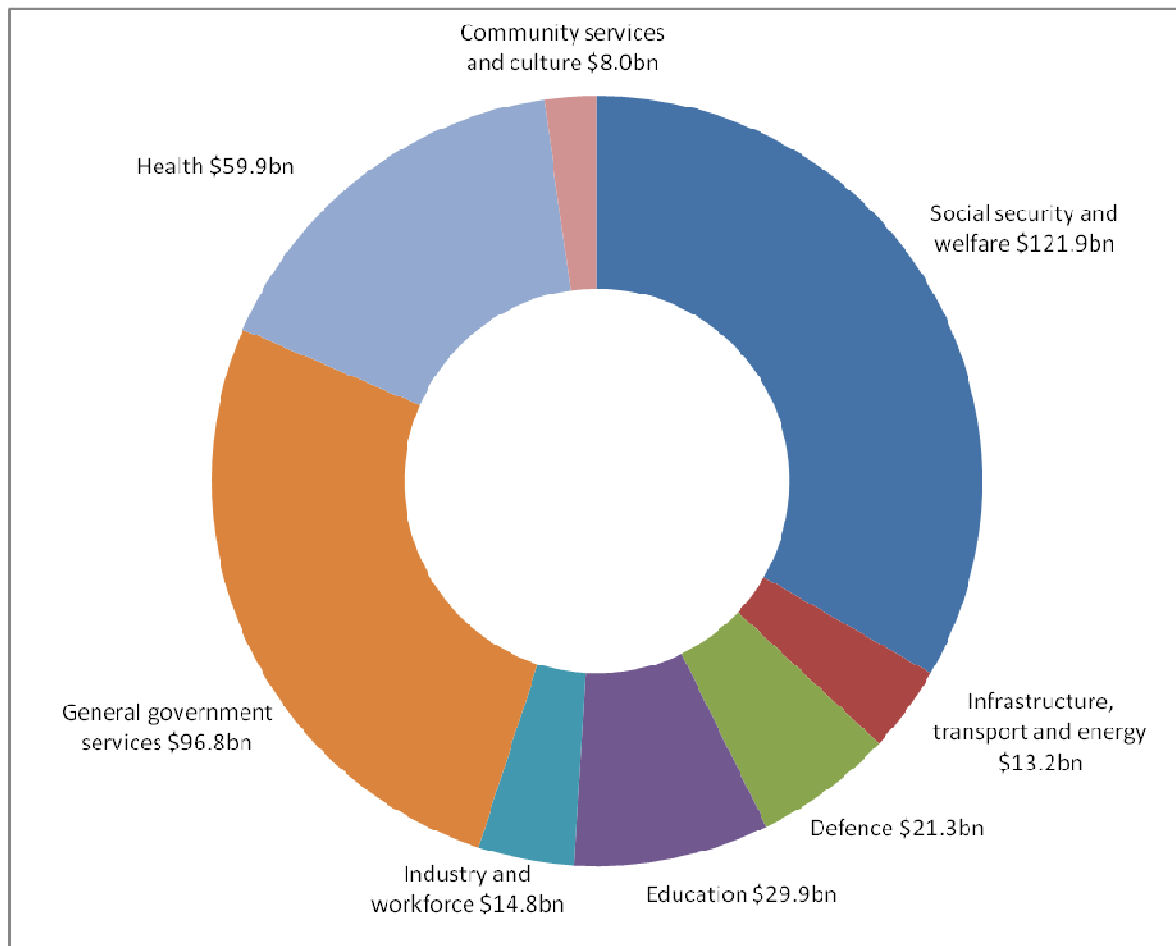
The 2011-12 Budget Papers are available at any of the following Websites:

- Federal Government <http://budget.australia.gov.au>
- Australian Parliament House www.aph.gov.au/budget
- Australian Taxation Office www.budget.gov.au
- Department of Finance and Deregulation www.finance.gov.au/budget
- Federal Treasurer www.treasurer.gov.au
- Assistant Treasurer www.assistant.treasurer.gov.au

Government Revenue



Government Expenditure



PERSONAL TAXATION

Personal tax rates - no change to already legislated rates for 2010-11

The Government did not make any changes to the current tax rates, which are:

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

<i>Taxable income (\$)</i>	<i>Tax payable (\$)</i>
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

The above rates exclude the 1.5% Medicare levy and the flood levy.

Flood levy

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

Individuals are exempt from the levy if they were affected by a natural disaster during 2010-11 and received an Australian Government Disaster Recovery Payment.

Medicare levy

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).

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).

Non-resident individuals

Non-residents: rates and tax payable: 2010-11 and later years

<i>Taxable income (\$)</i>	<i>Tax payable (\$)</i>
0 - 37,000	29%
37,001 - 80,000	10,730 + 30% of excess over 37,000
80,001 - 180,000	23,630 + 37% of excess over 80,000
180,001 +	60,630 + 45% of excess over 180,000

Note: The above rates exclude the 1.5% Medicare levy and the flood levy (the flood levy can apply to non-residents where they have taxable Australian income over \$50,000).

Minors no longer entitled to low income tax offset on unearned income

The Government will remove the ability of minors (children under 18 years of age) to access the low income tax offset (LITO) to reduce tax payable on their *unearned income*, such as dividends, interest, rent, royalties and other income from property, *with effect from 1 July 2011*. This is designed to discourage income splitting between adults and children.

No deductions against Govt assistance payments - *Anstis* overruled

The Government will amend the tax law to *prevent deductions being claimed against all government assistance payments, with effect from 1 July 2011*, in response to the 2010 High Court decision in *FCT v Anstis* [2010] HCA 40. The Government says the change is designed to maintain the integrity of the deductions system and provide certainty as to the scope of eligible deductions.

Dependent spouse rebate for spouses under 40 to be phased out

The Government announced it will phase out the tax offset for dependent spouses aged less than 40 (i.e. born on or after 1 July 1971) "to help encourage more Australians into paid employment". This change will mean taxpayers with a dependent spouse aged less than 40 years will no longer be eligible for the dependent spouse tax offset (DSTO) from 1 July 2011.

Income test on the private health insurance rebate

Although not formally announced in the Budget, Thomson Reuters confirmed with Treasury has confirmed the intention of the Government to re-introduce a package of Bills to income test the 30% private health insurance rebate.

Low income tax offset: bring forward - more in pay packets

From 1 July 2011, the Government will increase the proportion of the low income tax offset (LITO) that is delivered through workers' week-to-week pay packets from 50% to 70%. This change means instead of being compensated after they put in their tax return at the end of the year, lower income earners are taxed less during the year. The remaining 30% of their LITO will still be paid as a lump sum on assessment of income tax returns.

Family Tax Benefit, Baby Bonus and related changes

The 2011-12 Federal Budget provides an increase in Family Tax Benefit (FTB) Part A for 16-19 year olds.

From 1 January 2012, the new maximum rate of FTB Part A for 16-17 year olds in secondary school will be increased from the current \$52.64 per fortnight to \$214.06 per fortnight, ie by around \$160 per fortnight - an increase of around \$4,200 per year. For 18-19 year olds in school, the rate will be \$3,741 per year. This will align with the 13-15 year old rate and ensure assistance for families does not drop when children turn 16. The increases to FTB Part A will only be available for families where their teenager is in full-time secondary study, or the vocational equivalent.

From 1 January 2012, the Government will lower the maximum age of eligibility for FTB Pt A from 24 to 21. This will bring FTB Pt A into line with the reduction in the Youth Allowance age of independence to 22 from 1 January 2012.

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. For example, a family with 2 children under 12 will be able to receive an advance payment of up to \$644.

The annual end of year FTB supplements will be held at the current levels for the next 3 years. The FTB supplements will be fixed at the current 2010-11 levels of \$726.35 per annum per child for FTB Pt A and \$354.05 per annum for FTB Pt B until 1 July 2014.

Tax-free apprenticeship payments

The 2011-12 Budget includes \$281m for additional tax-free payments to encourage apprentices in critical trades to complete their qualifications. The Government expects the \$1,700 Trades Apprentice Income Bonus to support 200,000 trade apprentices over 4 years in skills shortage occupations to stay in their training and get a skilled job.

Pacific Seasonal Worker Pilot Scheme: improved tax treatment

The Government announced it will reduce the bottom marginal tax rate for non-resident individuals participating in the Pacific Seasonal Worker Pilot Scheme (the Scheme) to 15%. This rate will apply from the first dollar of income up to \$37,000, with effect from the 2011-12 income year.

HECS: reduction in discounts

The Government will reduce the following discounts applying to payments made under the Higher Education Contribution Scheme (HECS):

- the discount available to students electing to pay their student contribution up-front will be reduced from 20% to 10%; and
- the bonus on voluntary payments to the Tax Office of \$500 or more will be reduced from 10% to 5%.

Under HECS, students electing to pay their student contribution up-front will continue to receive a 10% discount on the payment. Students choosing not to pay up-front can take out a concessional loan to pay their student contribution under the Higher Education Loan Program (HELP).

Under HELP, students accrue an outstanding debt which is repaid gradually when their assessable income exceeds a minimum repayment threshold. Students can also elect to make additional voluntary payments through the Tax Office to further reduce their outstanding HELP debt. Payments of \$500 or more will now attract a 5% bonus so that a payment of \$500 would reduce an individual's outstanding HELP debt by \$525.

SUPERANNUATION

Excess contributions tax: refund option for contributions up to \$10,000

The Government will provide eligible individuals who breach the concessional contributions cap by up to \$10,000 with a one-off option to request that these excess contributions be refunded to them. This new refund option will only apply to first time breaches from 1 July 2011.

The changes will give individuals the option to take excess concessional contributions out of their superannuation fund and have them assessed as income at their marginal rate of tax, rather than the excess concessional contributions tax rate of 31.5% (in addition to the 15% contributions tax for the fund).

Concessional contributions

Concessional contributions generally include employer contributions (those made under salary sacrifice arrangements and super guarantee contributions) and personal contributions for which the taxpayer intends to claim a deduction. However, less obvious concessional contributions include notional taxed contributions for defined benefit interests, transfers of certain fund reserves and payments by employers of fund expenses (e.g. life insurance premiums).

Since 2009-10, the "concessional contributions cap" has been set at \$25,000 (or \$50,000 for those aged 50-74 until 30 June 2012). Note that the Government has proposed to allow individuals aged 50 and over with less than \$500,000 in super to contribute \$25,000 more per year than other individuals from 1 July 2012: As a result, when the general concessional contributions cap increases with indexation from \$25,000 to \$30,000, the higher cap will increase by the same dollar amount.

Minimum pension drawdowns: 25% reduction for 2011-12

The minimum annual payment amounts for pensions and annuities will be reduced by 25% for 2011-12 and will return to normal in 2012-13. In this respect, the Government will begin to phase out the 50% pension drawdown relief that has been provided for 2008-09, 2009-10 and 2010-11 financial years.

Reducing the minimum payment amounts by 25% for account-based, allocated and market linked (term allocated) pensions from 1 July 2011 seeks to provide some assistance to holders of these products to recoup capital losses incurred as a result of the global financial crisis. This measure has an estimated cost to revenue of \$7m over 2 years and is also expected to increase Government expenditure by \$9m in 2011-12 through higher pension outlays.

SMSF regulation: additional funding and increased levy

To implement the range of "Stronger Super" reforms to the self-managed superannuation fund (SMSF) sector, the Government will provide \$40.2m to the Tax Office and \$8.4m to ASIC from 2010-11 to 2014-15. The package of SMSF reforms, previously announced by the Government on 16 December 2010, are designed to improve the operation, efficiency and integrity of the SMSF sector.

The cost of this measure will be offset by an increase to the SMSF levy from \$150 to \$180 with effect from the 2010-11 income year and the introduction of SMSF auditor registration fees from 1 July 2012.

SMSF auditors

The Government will provide \$2.8m to ASIC to develop a second pass business case and initial capital expenditure for the development of a facility for the online registration of approved auditors of SMSFs from 1 July 2012.

SuperStream

The Government will also provide \$14.6m to the Tax Office to develop a business case and initial capital related expenditure to implement a mechanism for members to view their superannuation accounts that have been reported to the ATO and establish governance and project teams during consultation to undertake detailed design of ATO IT systems to support the SuperStream measures.

MySuper

The Government will provide \$26.2m to APRA and \$3.7m to ASIC to introduce MySuper. This measure will be funded by an increase in the levy on APRA regulated superannuation funds.

Concessional contributions: higher cap for those 50 and over

The Government will set the proposed higher concessional contributions cap at \$25,000 above the general concessional cap for eligible individuals aged 50 and over with total superannuation balances of less than \$500,000.

The proposal to allow individuals aged 50 and over with total superannuation balances below \$500,000 to continue making up to \$50,000 per year in concessional contributions from 1 July 2012 was previously announced as part of the Government's response to the Henry Tax Report on 2 May 2010.

The Government has confirmed that the higher cap will enable eligible persons over 50 to be able to contribute \$25,000 more per year than other workers subject to the general concessional contributions cap of \$25,000. As a result, when the general concessional contributions cap increases with indexation from \$25,000 to \$30,000, the higher cap will increase by the same dollar amount.

SMSF trustee-director a parent or guardian of minor

The Government will amend the superannuation legislation so that where the trustee of a self-managed superannuation fund is a body corporate, a parent or guardian may be director of the body corporate in place of a member that is a minor. No commencement date specified;

Superannuation co-contribution indexation freeze extended

The Government will continue the freeze on the income thresholds for an additional year to 2012-13. Under the co-contribution scheme, the Government provides a matching co-contribution for contributions made into superannuation out of after-tax income. The matching Government co-contribution is up to \$1,000 for people with incomes of up to \$31,920 in 2010-11 (with the amount available phasing down for incomes up to \$61,920). This measure will continue to freeze these thresholds at \$31,920 and \$61,920, respectively;

TFNs for superannuation

The Government will allow superannuation fund trustees and RSA providers to make greater use of tax file numbers (TFNs) to locate member accounts and to facilitate the consolidation of multiple member accounts. This measure will remove the existing requirement for fund trustees and RSA providers to use other methods of identification to locate accounts before TFNs can be used, with effect from 1 July 2011. It will also assist fund trustees and RSA providers to carry out more efficient consolidation of multiple member accounts, with effect from 1 January 2012, if not proclaimed earlier;

Superannuation on payslips

The Government will 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;

Federal Magistrates' superannuation contributions

The Government will increase the superannuation employer contribution rate for Federal Magistrates from 13.1% to 15.4%. This increase will align the employer contribution rates for Federal Magistrates with most Australian Government employees and office holders.

BUSINESS TAXATION

Small business motor vehicle tax write-off to replace Entrepreneur's Tax Offset

The Government will provide Australian small businesses with an instant tax write-off of the first \$5,000 of any motor vehicle purchased from 2012-13. 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 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.

FBT and cars - flat 20% valuation rate to apply

The Government announced what would amount to implementation of Henry Tax Review Recommendation 9(c) that the current statutory formula 4-percentage rate scale method for valuing car fringe benefits be replaced with a single statutory rate of 20%, regardless of the number of kilometres travelled.

The changes will apply to new vehicle contracts entered into after 7:30pm (AEST) on 10 May 2011, and will be phased in over 4 years as follows:

FBT statutory rate method

KM travelled	Current	From 10 May 11	From 1 Apr 12	From 1 Apr 13	From 1 Apr 14
0-15000	26%	20%	20%	20%	20%
15,000-24,999	20%	20%	20%	20%	20%
25,000-40,000	11%	14%	17%	20%	20%
>40,000	7%	10%	13%	17%	20%

People who use their vehicle for a significant amount of work-related travel will still be able to use the "operating cost" (or "log book") method to ensure their car fringe benefit excludes any business use of the vehicle.

Reportable fringe benefits - other tax consequences

The change will also have other potentially significant flow-on effects. The FBT value of a company car is included in the "reportable fringe benefits amount" that is shown on an employee's Payment Summary. Any change (up or down) in this amount could affect eligibility to certain tax concessions and government benefits as the "reportable fringe benefits amount" is counted towards various income tests that are used to determine eligibility for certain tax concessions and government assistance programs, including:

- Child Care Benefit, child support and Family Tax Benefit (Part A and B)
- dependant tax offsets
- Medicare levy surcharge

- personal superannuation contribution deduction - 10% test for the maximum earnings as an employee
- government superannuation co-contribution; spouse superannuation contributions tax offset
- Senior Australians Tax Offset; Mature Age Worker tax offset; Entrepreneurs' tax offset
- Higher Education Loan Programme (HELP)
- offsetting of excess deductions from a non-commercial business
- employee share scheme upfront tax concession.

Charities /Not for profit - Treatment of income tax concessions

The Government intends to ensure that tax concessions provided to charities /NFPs are targeted only at those activities which directly further its altruistic purposes. Under this measure, the NFP income tax concessions will only apply to profits generated by unrelated commercial activities that are directed back to a NFP entity to carry out its altruistic work. This means NFP entities will pay income tax on profits from their unrelated commercial activities that are not directed back to their altruistic purpose (i.e. the earnings they retain in their commercial undertaking).

NFP entities, in respect of their unrelated commercial activities, will also not have access to the FBT exemptions or rebate, GST concessions, or deductible gift recipient support in relation to those activities. Commercial activities that further a NFP entity's altruistic purposes, and small-scale and low-risk unrelated commercial activities, will not be affected by the reforms.

Statutory definition of "charity"

The Government will consult on and introduce a statutory definition of "charity" for all Commonwealth laws. It will be based on the 2001 Report of the Inquiry into the Definition of Charities and Related Organisations, taking account of the findings of recent judicial decisions, such as *Aid/Watch Incorporated v FCT*.

The Australian Charities and Not-for-profits Commission

The Government will establish a new independent statutory agency, the Australian Charities and Not-for-profits Commission (ACNC).

It will initially be responsible for determining the legal status of groups seeking charitable, public benevolent institution (PBI) and other NFP benefits for all Government agencies. The Government will also implement a "report-once use-often" reporting framework for charities, provide education and support to the sector on technical matters, and establish a public information portal.

From 1 July 2011, the Tax Office will structurally separate its role of determining charitable status from its role of administering tax concessions, in preparation for the establishment of the ACNC. The Commissioner of Taxation will retain responsibility for administering tax concessions for the not-for-profit sector.

Company loss recoupment rule amendments

The company loss recoupment rules will be amended to make it easier for companies to satisfy the continuity of ownership test in certain circumstances.

This measure will modify the continuity of ownership test so that ownership does not need to be traced through certain superannuation entities. It will also remove technical deficiencies in the modified rules for widely held entities where:

- an entity is interposed between certain stakeholders and the loss company in certain circumstances
- an interposed entity demerges
- an interposed foreign entity issues bearer depository receipts
- a corporate change arising from the issue of new shares happens

The measure will also ensure that all membership interests held in an entity are treated as a single asset for the purpose of applying the low value asset exclusions under the loss integrity rules.

PAYG instalments - GDP adjustment factor reduced for 1 year

The Government will reduce income tax instalments paid under PAYG using the gross domestic product (GDP) adjustment method for one year. PAYG instalments in 2011-12 will be set at 4% above a small business's taxable income for the previous year, half the statutory rate that would otherwise have applied. In accordance with the existing law, taxpayers may still vary their quarterly tax instalments if they consider their income is expected to be lower or higher than the amount determined by the Commissioner of Taxation using the 4% adjustment factor.

This is a one-year benefit, and the statutory rate will apply as normal from 2012-13.

This reduction does not apply to taxpayers who calculate their instalments based on the instalment rate notified by the ATO. Their payments will automatically adjust when they apply the given rate to their actual income for the quarter.

Loss utilisation for infrastructure projects

The changes will uplift project losses associated with designated infrastructure projects at the government bond rate and exempt those losses from the continuity of ownership test and the same business test.

The Budget papers state that infrastructure projects often experience long lead times between incurring deductible expenditure and earning income leading to tax losses being incurred in the early stages of the project. Under current arrangements, this leads to the erosion of the real value of tax deductions over time. Further, investors face a risk that a change in ownership of an infrastructure project and change in business operation, means future owners will not be able to access previous years' losses. This measure is intended to improve certainty for investors by ensuring that the value of losses will be maintained through time and making it more likely they will be able to utilise their tax losses.

A decision maker will be empowered to confer designated infrastructure project status on privately financed public infrastructure of national significance based on a range of criteria, including a global capital expenditure cap of \$25bn over the period from commencement of the enabling legislation to 30 June 2017.

Income tax relief and roll-over for water reforms

Amendments will be made to ensure that income tax, including CGT, does not discourage State and Territory reforms to streamline governance arrangements applying to private water supply and drainage systems.

This measure will provide CGT and capital allowance roll-overs to ensure that taxation is not an impediment to water reforms implemented by State and Territory governments.

Farm Management Deposits: early access allowed

The Government announced it will allow primary producers affected by natural disasters to access their farm management deposits (FMDs) within 12 months of making a deposit while retaining concessional tax treatment under the scheme. This will provide the same taxation relief as provided to primary producers affected by severe drought to those who are affected by other types of natural disaster.

Foreign currency rules: use of functional currency

The Government announced it will allow certain trusts and partnerships that keep their accounts solely or predominantly in a particular foreign currency to calculate their net income by reference to that currency. This change will take effect from the date of Royal Assent of the amending legislation.

Debt/equity rules: proposed amendments

The Government will amend the debt/equity tax rules to restrict the application of an integrity provision that deems an interest from an arrangement that funds a return through connected entities to be an equity interest under certain circumstances. This is intended to ensure that this provision will only apply to arrangements where both the purpose and effect is that the ultimate investor has, in substance, an equity interest in the issuer company. Additionally, the integrity provision will not apply where the Commissioner considers that it would be unreasonable for the provision to apply.

Transitional period for Upper Tier 2 capital instruments

The Government has extended the debt/equity transitional period for Upper Tier 2 capital instruments to 1 July 2011.

The extension will give issuers of relevant financial instruments, mainly Authorised Deposit-Taking Institutions, the opportunity to amend relevant instruments to come within the terms of regulations which were made on 10 March 2011. The new regulations ensure that certain Upper Tier 2 perpetual subordinated notes are not precluded from being a debt interest under the debt/equity tax rules.

General interest charge: ensuring its continuous operation

The Government announced it will rectify a technical deficiency with the law relating to the general interest charge (GIC) that prevents the ongoing imposition of the GIC in some circumstances. The amendments will have effect from 1 July 2010.

The tax law imposes GIC for the late payment of income tax and shortfall interest charge (SIC) liabilities. However, the Government said a deficiency arose from the rewrite and transfer of the GIC rules from the ITAA 1936 to the ITAA 1997 in 2010. The current transitional rules do not impose GIC on income tax and SIC liabilities due on or after 1 July 2010 which relate to financial years ending on 30 June 2010 or earlier. The changes announced are meant to rectify this.

Definition of exploration to include geothermal energy

The Government will incorporate geothermal exploration into the wider definition of exploration.

Currently, geothermal exploration expenditure does not attract the same tax treatment as applies to traditional hydrocarbon energy sources that require exploration and drilling. This measure is expected to cost \$10m over the forward estimates period.

Project Wickenby: reduced involvement of Crime Commission

The Government has identified savings of \$2.5m by discontinuing a component of the Australian Crime Commission's (ACC) involvement in addressing tax fraud involving the use of offshore tax havens (Project Wickenby). The Government said the saving will be achieved through a reduction in staff and associated project expenses.

Countering fraudulent phoenix activities by company directors

The Government will strengthen the tax law to counter fraudulent phoenix activity (which involves a company intentionally accumulating debts to improve cash flow or wealth and then liquidating to avoid paying the debt. The business is then continued as another corporate entity, controlled by the same person or group and free of their previous debts and liabilities).

Under the proposed measures:

- the director penalty regime will be extended to superannuation guarantee amounts,
- directors will be personally liable for their company's failure to pay employee superannuation;
- the Tax Office will be given the power to commence recovery against directors under the director penalty regime, without providing a 21 day grace period, for certain unpaid company liabilities that remain unreported after three months of becoming due; and
- in certain circumstances directors and associates of directors will be prevented from obtaining credits for withheld amounts in their individual tax returns where the company has failed to pay withheld amounts to the ATO.

Tax changes for securities lending arrangements

The Government will amend the tax rules for securities lending arrangements to ensure that the lender under a securities lending arrangement is treated as not having disposed of the lent securities where:

- the borrower does not return the securities, or identical securities, within 12 months due to the borrower's insolvency; and
- no later than 30 days after the resulting default (or within such longer period that the Commissioner allows), the lender restores their original position prior to the securities lending arrangement by using the collateral received under the arrangement to purchase identical securities.

Reporting Government grants and payments

The Government will provide \$43.3m over four years to the Tax Office to allow it to monitor the accurate accounting of government grants and payments. The increased funding will enable the Tax Office to collect payment information from government agencies across all three levels of government, and will provide for sophisticated data-matching techniques to examine compliance by the recipients of such payments.

Luxury car tax: importation by public museums

The Government will amend the luxury car tax legislation to allow eligible entities, such as endorsed public museums and art galleries, to import cars free from the luxury car tax.

This is intended to ensure consistent treatment of imports by these entities which are currently able to import works of art or collectors' pieces free from Customs duty and GST. Allowing imports of museum pieces by these entities to be free of all import taxes will bring Australia fully into line with its international treaty obligations.

Enhanced refund fraud detection and management

The Government will provide \$56.4m over four years to the Tax Office to address fraudulent tax refund claims. This measure is estimated to result in an additional \$232.6m in revenue in fiscal balance terms over four years.

Reporting taxable payments

The Government will require certain businesses to report annually on payments made to contractors in the building and construction industry. The reporting regime will require businesses to report information that they should already collect under existing tax arrangements. This measure also includes an increase in funding for the Tax Office of \$46.4m over the forward estimates period which will allow the Tax Office to undertake data matching, reviews of contractors' tax liabilities and targeted audits. This funding will also be used to provide further assistance and education to industry.

The Government will also consult publicly on options to introduce a similar reporting regime for payments to contractors in the commercial cleaning industry.

Investment Manager Regime - interim arrangements

The Government will amend the income tax laws to prevent the Tax Office from raising assessments for certain portfolio investment income on foreign managed funds for the 2010-11 income year or prior income years, where the fund has never lodged an Australian income tax return. This measure extends the arrangements initially announced on 17 December 2010 which applied to the 2009-10 and prior income years. The Assistant Treasurer said these interim Investment Manager Regime (IMR) arrangements seek to address uncertainty regarding the taxation arrangements for certain portfolio investment income of foreign managed funds. The measure will also enable foreign managed funds and their investors to comply with US reporting requirements, Mr. Shorten said.

Board of Taxation review

The Assistant Treasurer also noted that the Board of Taxation is currently examining the design of the IMR regime as part of its review of the tax treatment of collective investment vehicles (CIVs). Extending the previously announced measure will allow the Government to consider the Board's report prior to making a final decision on the tax treatment of this investment, Mr Shorten said. The Board will continue to progress other aspects of an IMR as part of its CIV review, with a view to reporting to Government by 31 December 2011.

Payments under Sustainable Rural Water Use and Infrastructure Program

The Government will amend the tax law to eliminate the timing difference between when payments under the Sustainable Rural Water Use and Infrastructure Program (SRWUIP) are taxed and when deductions are available for amounts spent under program agreements.

Petroleum Resource Rent Tax: clarifying the taxing point

The Government announced it will amend the tax law to provide greater certainty around how the taxing point is calculated for the purposes of the Petroleum Resource Rent Tax (PRRT), *with effect from 1 July 1990*. This is designed to confirm existing application of the PRRT in relation to the taxing point and is also designed to provide greater certainty for PRRT taxpayers.

CGT MEASURES

Scrip for scrip roll-over integrity measures

The Government will amend the scrip for scrip roll-over integrity provisions that apply to individuals and companies to ensure that they also apply appropriately to trusts, superannuation funds and life insurance companies.

Currently, the scrip for scrip roll-over integrity provisions apply to transactions where stakeholders in the target and acquiring entities have the potential to influence both entities. However, some trusts superannuation funds and life insurance companies consider the integrity provisions do not apply to them because as the stakeholders, they own the interests for the benefit of others (i.e. beneficiaries), rather than for their own benefit. As this was never the intended interpretation of the integrity provisions, the Government will amend them to ensure that they apply effectively to all stakeholders.

Small business tax concessions amendments

The Government will amend the small business tax concessions so that trusts will not be able to avoid being treated as connected entities for the purpose of testing eligibility for the concessions on the basis that the trusts do not own assets for their own benefit. These changes will also ensure that some small businesses will be able to access the small business CGT concessions because the changes will make their business assets *active*.

Extensions to main residence exemption for special disability trusts

The Government will extend the 2009-10 Budget measure that provides a CGT main residence exemption to special disability trusts (SDTs). In particular, the measures will: backdate the CGT main residence exemption for SDTs to apply to CGT events happening in the 2006-07 income and later years;

- provide equivalent taxation treatment amongst SDTs established under either the *Veterans' Entitlements Act 1986* and *Social Security Act 1991*; and
- provide a CGT exemption for assets transferred into a SDT for no consideration and give a market value cost base for testamentary transfers

In addition, the measures will provide a CGT exemption in the advent of the death of the principal beneficiary for the intended recipient of the principal beneficiary's main residence, if the recipient disposes of the dwelling within two years of the principal beneficiary's death (and the dwelling was not used to produce assessable income). Note that a partial exemption may be available to the trustee of the SDT if the dwelling was used to produce assessable before the principal beneficiary's death.

Exemption for incentives re renewable resources or environmental preservation benefits

The Government will exempt from CGT any gains or losses arising from a right to a financial incentive granted to taxpayers under an Australian government (Commonwealth, State or Territory) scheme that encourages them to acquire renewable resource assets (e.g. photovoltaic solar cells or solar hot water systems) or for their agreeing to preserve a part of Australia's environmental amenity (e.g. for refraining from removing remnant vegetation). This measure will also turn off the income tax recoupment rules in relation to any underlying assets (e.g. a solar hot water system) to ensure that the incentive keeps its full financial value.

Limiting the trading stock exception for super funds

The Government will remove the trading stock exception to the CGT primary code rule for complying superannuation entities for specified assets. This measure will ensure gains or losses on specified assets (primarily shares, units in a trust and land) are subject to CGT, consistent with CGT being the primary code for taxing gains and losses of complying superannuation entities. A small number of complying superannuation entities are seeking to treat shares as trading stock, so as to deduct losses on their shares against income other than capital gains.

Minor amendments: roll-over for shares, life insurance, deceased estates

A series of minor amendments to the income tax law to ensure the proper functioning of the CGT and associated provisions, including:

- Ensuring that the **roll-over for the exchange of shares** in one company for shares in another company operates properly, so that there is deferral of a profit or loss where the original shares are held on revenue account at the time of the exchange. This change will have effect from 7.30 pm (AEST) on 10 May 2011.
- Amending the **roll-over for certain disposals of assets by a trust** to allow roll-over relief to apply where a transferee company or trust holds rights, just before the disposal or transfer time, associated with a deed or similar document that is designed to facilitate the transfer of assets into the company or trust. These changes to the roll-over for the disposal of assets by a trust to a company will have effect for CGT events happening after 7.30 pm AEST on 10 May 2011 and the changes to the roll-over for the transfer of assets between certain trusts will have retrospective effect for CGT events happening on or after 1 November 2008.
- Ensuring that gains and losses arising from **life insurance policies** that are generally exempted from CGT are not then taxed under the ordinary income tax provisions by removing the exception to the CGT primary code rule for such gains and losses. This will remove uncertainty in the application of income tax to compensation or damages payments made under life insurance policies. These changes will apply to CGT events happening in the 2005-06 income year and later income years.
- Legislating the current Tax Office practice of allowing a **testamentary trust** to distribute an asset of the deceased person without a CGT taxing point occurring. The income tax law in relation to **deceased estates** will also be rewritten using a principle based format and minor

technical issues relating to deceased estates fixed. These changes will apply to CGT events happening on or after the day the legislation receives Royal Assent.

- Provide the Commissioner with a discretion to extend the two-year ownership period in which the trustee of a deceased estate or beneficiary of such an estate must dispose of their interest in the **deceased's dwelling** to access a full capital gains tax main residence exemption (or a more generous partial exemption).
- Ensure that for the purposes of the CGT concession stakeholder test in the **small business concessions**, taxpayers can have a non-zero direct small business participation percentage where: (a) shares in a company are held jointly by taxpayers; and (b) a discretionary trust has not made a distribution in an income year where the trust had a tax loss or no net income for that year.

CGT and other roll-overs for amalgamations of indigenous corporations

The income tax laws will be amended to ensure that there are no immediate taxation consequences for Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act) corporations that amalgamate with one or more CATSI Act corporations.

The measure will provide a capital gains tax roll-over for members' interests in CATSI Act corporations that amalgamate, and will also provide a roll-over for any gains or losses realised by the original corporation when it ceases to own its CGT assets, revenue assets, trading stock and depreciating assets that become assets of the newly amalgamated entity.

GST MEASURES

Instalment system for small businesses

The Government will extend the current GST instalment system to allow access for small businesses that are in a net refund position.

The current legislation does not allow a business that is in a net refund position to pay GST by instalments. A business is in a net refund position when it is entitled to receive more input tax credits on its purchases than it is required to pay GST on its sales. This measure is intended to allow small businesses in a net refund position to choose to access the GST instalments system, with an instalment amount each quarter of zero. Any refunds or liability due to the taxpayer will be reconciled in their annual GST return.

Deferral of Board of Taxation recommendations

The Government has announced the deferral of a number of measures announced in the 2009-10 Budget which were to implement the Board of Taxation recommendations relating to the administration of GST. The measures were to commence on 1 July 2011.

Property in possession of a mortgagee

The Government will amend the GST Act to clarify that Div 105 operates to the exclusion of Div 58 where a mortgagee in possession or control sells the property of a corporation. This is intended to provide certainty and reduce compliance costs for entities in the mortgage lending sector by allowing mortgagees in possession or control of property of corporations to continue to report and account for their GST obligations under a single registration.

Supplies to health insurers

Certain supplies made to health insurers in the course of settling health insurance claims will be GST-free. This follows the decision in *FCT v Secretary to the Department of Transport (Victoria)* [2010] FCAFC 84.

OTHER MEASURES

Alternative fuels taxation: confirmation of delayed introduction

The Government confirmed its January 2011 announcement[1]) that it would delay the introduction of excise and excise-equivalent customs duty on alternative fuels until 1 December 2011 in response to representations from industry to allow additional time to implement the tax changes.

The Budget papers also state that the Government will simplify the arrangements by applying transitional tax rates to gaseous fuels and biodiesel at the scheduled effective tax rates during the transition to 2015-16, instead of imposing tax at the final rate and providing offsetting production grants.

The Government said it will also make several other minor changes, including revising the unit of measurement of compressed and liquefied natural gas for taxation purposes from cents per litre to cents per kilogram, consistent with general industry practice.

Crude oil excise - technical amendments

The Government said it will make several technical legislative amendments to ensure that condensate production is subject to crude oil excise as announced in the 2008-09 Budget.

The amendments include changes to the *Excise Tariff Act 1921* to introduce a statutory definition of the production area "Rankin Trend", and to ensure that production from "Rankin Trend" does not represent "exempt offshore oil and condensate". The *Petroleum Excise (Prices) Act 1987* will be amended to clarify that determinations of Volume Weighted Average Realised Price, which are integral to the operation of the excise regime, are not invalidated merely by a failure to issue a notice to the producer.

Excise and excise-equivalent customs duty – measures not to proceed

The Government announced it will not proceed with the 2007-08 Budget measure to expand access to refunds, remissions and drawbacks of duty for particular excisable goods. In developing the legislation, the Government said compliance and administration issues emerged, raising concern that the proposed legislative amendments would impose unforeseen compliance and administration costs.

Apprentices and training

The Government announced it will allocate some \$558m to a Workforce Development Fund designed to deliver 130,000 training places over 4 years. The Budget also delivers a \$101m national mentoring program to help 40,000 apprentices finish training and better meet the needs of industries and regions. The Government said it is also investing \$100m in more flexible training models, allowing apprenticeships to be fast-tracked as they acquire critical trade skills.

Deferral of Paid Paternity Leave start date

The Government is to defer the implementation of Paid Paternity Leave by 6 months, from 1 July 2012 until 1 January 2013. The measure will provide eligible working fathers, and other partners who are providing full-time care or sharing the child's care, with 2 weeks paternity leave paid at a rate equivalent to the national minimum wage for children born on or after 1 January 2013.

2011 Australian Federal Budget

Revenue	Notes	2010-11 Budget est (\$m)	2011-12 Budget est (\$m)	Change on 2010-11 \$m (\$m)	(%)
Income tax					
<i>Individuals</i>	1				
Gross income tax withholding	2	131,320	144,930	13,610	10.4
Gross other individuals	3	29,860	33,360	3,500	11.7
Less refunds	4	24,850	27,400	2,550	10.3
Total – individuals		136,330	150,890	14,560	10.7
FBT	5	3,670	3,760	90	2.5
Company tax	6	57,880	74,600	16,720	28.9
Superannuation funds	7	7,220	9,330	2,110	29.2
Resource rent taxes	8	940	2,050	1,110	118.1
Total - Income tax	9	206,040	240,630	34,590	16.8
Indirect tax					
GST	10	48,180	50,630	2,450	5.1
Other	11	1,220	1,270	50	4.1
Total sales taxes		49,400	51,900	2,500	5.1
Excise duty	12				
Petrol	13	5,910	5,870	-40	-0.7
Diesel	14	7,300	7,610	310	4.2
Other	15	12,850	12,850	0	0
Total excise duty	16	26,060	26,330	270	1.0
Custom duty	17	6,040	7,520	1,480	24.5
Total other indirect taxes		2,758	2,867	109	4.0
Total indirect taxes		84,258	88,617	4,359	5.2
Total tax receipts	18	290,298	329,247	38,949	13.4
Non tax revenue	19	20,480	20,714	234	1.1
Total revenue	20	310,779	349,961	39,182	12.6

2011 Australian Federal Budget		2010-11	2011-12	Change on	
Expenses	Notes	Budget est	Budget est	2010-11 \$m	(%)
		(\$m)	(\$m)	(\$m)	
General public services	21	21,239	20,887	-352	-1.7
Defence	22	20,136	21,277	1,141	5.7
Public order and safety	23	3,943	3,969	26	0.7
Education	24	32,555	29,870	-2,685	-8.2
Health	25	57,240	59,858	2,618	4.6
Social security and welfare	26	116,739	121,907	5,168	4.4
Housing and community	27	5,741	4,647	-1,094	-19.1
Recreation and culture	28	3,342	3,397	55	1.6
Fuel and energy	29	6,269	6,302	33	0.5
Agriculture, forestry and fishing	30	3,067	3,444	377	12.3
Mining, manufacturing and construction	31	2,039	2,014	-25	-1.2
Transport and communication	32	4,748	6,919	2,171	45.7
Other economic affairs	33	9,055	9,385	330	3.6
Other purposes	34	64,692	71,940	7,248	11.2
Total expenses		350,803	365,817	15,014	4.2

Notes

1. Solid growth in employment and wages post the financial crisis will boost the biggest revenue source
2. Reflects anticipated growth in employment and wages as the labour market moves to full capacity
3. Unincorporated business income, and interest and dividend income to rise
4. Refunds to individuals to grow with overall tax growth
5. Revenue to grow on wages and employment growth with stronger economy
6. The financial crisis, natural disasters and strong \$A worked against a quick recovery
7. Recovery in revenues tempered by utilisation of capital losses
8. Strong oil prices to drive future increases
9. Natural disasters, a strong \$A and lower consumption have taken a toll on over tax revenue
10. Weaker than expected consumer spending will reduce the key consumption tax
11. Subdued alcohol consumption and flat luxury car tax revenues reflect consumption patterns
12. Big one off rise due to 25% increase in tobacco excise rate from 30 April 2010
13. Fell on high investment costs
14. Rising on stronger than expected production
15. Total excise duty revenue
16. Expected to rise in the projection years in line with long term trend growth rates
17. Lower than expected due to weaker household demand

18. Outlook improves from 2012-13 because of the projected economic recovery
19. Government fees are up but dividends and goods sales are down
20. Overall revenue growth is subdued due to the weaker near term economic outlook, but improved after next year
21. Spending on foreign affairs and economic aid is to rise substantially
22. Spending growth has been curtailed significantly due to efficiencies and deferral of purchases
23. Real funding to fall in line with efficiencies within justice, law enforcement and intelligence
24. More is to be spent on high education and government and private schools
25. Technological change, social factors and an ageing population continue to increase spending
26. Assistance to the aged, families with children and people with disabilities contribute most to spending growth
27. Spending to fall with the end of government stimulus programs
28. Broadcasting expenses will rise under the digital TV program
29. Economic growth is expected to increase the cost of the fuel tax credits scheme
30. Drought relief program costs are expected to fall substantially
31. Spending on textiles, clothing and footwear programs will fall, the R&D tax offset will cost slightly more
32. The nation building program will increase spending on transport infrastructure
33. Improved economic conditions are expected to reduce the cost of labour market and job seeker programs
34. Rising general revenue assistance to the states and territories (payment of GST revenue grants)

Economic Forecast	2010-11	2011-12	2012-13
Real GDP	2.25%	4.00%	3.75%
Employment	2.75%	1.75%	1.75%
Unemployment	5.00%	4.75%	4.50%
Wage price index	4.00%	4.00%	4.25%
CPI	3.25%	2.75%	3.00%
Nominal GDP	8.00%	6.25%	5.75%

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