2016 BUDGET SUMMARY: STARTUP HITS AND MISSES

On 3 May 2016, the Treasurer Scott Morrison handed down the 2016-17 Budget. Overall, the measures targeted at the startup and innovation sector have mostly been small amendments and improvements to existing legislation and measures already announced.

Many of the improvements on tax incentives and wins for small and medium businesses build on the *Mid-Year Economic and Fiscal Outlook 2015-16* (***MYEFO***) measures handed down six months earlier as part of the National Innovation and Science Agenda (***NISA***).

While there is reason for optimism, the Budget may end up as a 'missed opportunity' to capitalise on an innovation momentum, given the failure to engage in broader reform in areas of STEM education and research and development.

TAX CUTS FOR SMBS

WHAT WAS ANTICIPATED

Tax cuts and flexibility measures for small and medium sized businesses.

WHAT WAS DELIVERED

1. **Tax cuts (down to 27.5 per cent) for incorporated small and medium sized businesses**, starting from 1 July 2016.
2. **More businesses will be eligible for the lower tax rate**, with the former $2 million threshold increased to **$10 million** in annual turnover. This means 870,000 businesses employing 3.4 million Australians will have their tax rate reduced. Further, more businesses will have access to small business depreciation pooling provisions, simplified trading stock rules, and PAYG instalments payments options.
3. **Unincorporated small business tax discount increased to 8 per cent** and the threshold from $2 million to less than $5 million.

BUILDING ON PREVIOUS MEASURES

The 2016-17 Budget builds on 2015-16 Budget, which included:

- 1.5 per cent tax cut to small businesses with annual turnover of less than $2 million;
- $20,000 instant asset write-off for small businesses, up from $1,000 – this will expire on 30 June 2017.

INCENTIVES FOR INVESTORS

WHAT WAS ANTICIPATED

Incentives for larger and later-stage funding, to allow investors to take more risks on scaling funding.

WHAT WAS DELIVERED

The 2016 Budget has set out the new incentives to encourage angel investors in early stage startups, which we previously reported on here. To recap, the Tax Laws Amendment (Tax Incentives for Innovation) Bill 2016 (the ***Innovation Bill***) included the following measures:

- a 20 per cent non-refundable tax offset based on the investment amount, capped at $200,000 per investor; and
- an exemption from capital gains tax on the investment provided a minimum 12-month holding period has been met (reduced from the three-year period as was originally announced in the MYEFO).

Other changes building on the MYEFO include:

- fleshing out of the definition of an eligible startup, a requirement that the investor not be affiliated with the startup;
- limiting investment amounts for non-sophisticated investors to $50,000 or less per income year in order to receive a tax offset.

In respect of venture capital investment:

- investments in new ESVCLPs became eligible for a tax offset of 10 per cent of the value of new capital invested during the income year;
- the previously announced increase in fund size from $100 million to $200 million for new ESVCLPs will now also apply to existing ESVCLPs; and
- venture capital tax concessions will now be available for FinTech, banking and insurance related activities.

The Innovation Bill passed by both Houses on 4 May 2015, and the measures are expected to commence 1 July 2016.

BUILDING ON PREVIOUS MEASURES

The 2016 Budget amended measures announced in the MYEFO (see pages 120-121).

PUBLIC INVESTMENT

WHAT WAS ANTICIPATED

Leaving unchanged or increasing the current thresholds and benefits for R&D tax offset scheme – currently at just over 2 per cent of GDP.

WHAT WAS DELIVERED

Left the R&D tax offset untouched, and introduced the following measures:

1. **Expanding the CSIRO accelerator programme** to support public research bodies
2. **Investing $2.4 million in bringing forward the launch of Singapore and Berlin Landing Pads** to 2016-17 to support emerging Australian companies in global innovation hotspots
3. **Investing $200,000 in promoting Australia internationally as a FinTech destination**
4. **Conducting a study into eInvoicing** by the government to improve efficiency
5. **Investing $194.9 million under the Cyber Security Strategy**, for measures including:
    - carrying out voluntary cyber security governance 'health checks' for ASX100-listed companies;
    - expanding the Council of Registered Ethical Security Testers Australia and providing grants to small business to test their cyber security.
6. **Investing an additional $88.6 million in the New Enterprise Investment Scheme** (NEIS) to encourage young entrepreneurship and self-employment

BUILDING ON PREVIOUS MEASURES

These measures build on those announced in the MYEFO (see pages 192-193).

The original measures included:

- $15 million over three years for the CSIRO accelerator program to translate research outcomes into commercial opportunities;
- The establishment of five Landing Pads were announced as part of the NISA:
    - First Landing Pad in San Francisco launched in February 2016;
    - Others: Tel Aviv, Shanghai, Berlin, Singapore;
- The Cyber Security Strategy was announced in April this year. For a summary see here.

EDUCATION

WHAT WAS ANTICIPATED

Funding for STEM education initiatives and flexible grants and funding for extra-curricular programs.

WHAT WAS DELIVERED

No measures.

BUILDING ON PREVIOUS MEASURES

- Under the NISA, the Australian Curriculum as endorsed by the COAG Education Council in September 2015 included a digital technologies element.
- Other initiatives have targeted support for children and women in STEM.
- In 2014, the Government invested $12 million for restoring focus on STEM in schools, $3.5 million of which was dedicating to teaching coding.

SKILLED IMMIGRATION

WHAT WAS ANTICIPATED

Improvements to investor and labour visas aimed at growing technically skilled workforce, and subsidies and platforms to raise the profile of Australian companies overseas.

WHAT WAS DELIVERED

No measures.

BUILDING ON PREVIOUS MEASURES

- The entrepreneur visa was announced as part of the NISA in December 2015, to be introduced in November 2016.
- The provisional visa will give permanent residency to those who have received capital backing from third parties to develop entrepreneurial ideas in Australia.

FINTECH REGULATORY SANDBOX

Coinciding with the Budget announcement, ASIC has released an update on its one-year-old Innovation Hub and its work in assisting FinTech startups to navigate their regulatory frameworks.

One key aspect of the update is the proposal for a 'regulatory sandbox' licensing exemption and related measures.

> WHAT IS IT?

The regulatory sandbox will provide new businesses with a class-wide licensing waiver as well as other benefits.

The intention is to allow businesses the freedom to build new products and run early-stage testing without the burden of dealing with complex regulatory requirements.

> WHO CAN APPLY?

The proposed regulatory sandbox will sit within the Innovation Hub, which focuses on providing informal assistance to new FinTech businesses in the early stages of their development.

'New businesses' are those which:

- have not started operation under an ASIC licence; or
- are in the process of obtaining a licence; or
- have been operating with a licence for less than a year.

In addition to qualifying as a new business, startups will need to satisfy additional eligibility criteria to access assistance through the Innovation Hub, including:

- whether the business has a 'potentially ground-breaking innovation'; and
- whether the business has an innovation that provides a better outcome for investors and customers.

ASIC will issue a public consultation paper in June which should answer this more definitively.

> WHAT TO EXPECT

The Commissioner has stated that ASIC will continue to 'prioritise assistance to fintech'. Features of the regulatory sandbox on which feedback is sought for the June public consultation paper include:

- a six-month licence-free window to test certain financial services;
- what types of services should/can be provided in a testing capacity and the products those services can relate to (eg, advice and dealing in relation to liquid investments);
- avenues for sophisticated investors and limited retail clients to participate and separate monetary exposure limits for those clients;
- consumer protections, such as membership of an external dispute resolution scheme and adequate compensation arrangements; and
- modified conduct and disclosure obligations that will apply to the testing business.

MEET THE TEAM

> ALLENS ACCELERATE

Allens Accelerate is a practice committed to working with startups and emerging companies to help them get on their way. Contact our team for more information.

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