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federal budget | October 2022

PERSONAL TAXATION

Personal tax rates unchanged for 2022–2023

In the Budget, the Government did not announce any personal tax rates changes. The Stage 3 tax changes commence from 1 July 2024, as previously legislated.

The 2022–2023 tax rates and income thresholds for residents are unchanged from 2021–2022:

- taxable income up to $18,200 – nil;
- taxable income of $18,201 to $45,000 – nil plus 19% of excess over $18,200;
- taxable income of $45,001 to $120,000 – $5,092 plus 32.5% of excess over $45,000;
- taxable income of $120,001 to $180,000 – $29,467 plus 37% of excess over $120,000; and
- taxable income of more than $180,001 – $51,667 plus 45% of excess over $180,000.

Stage 3: from 2024–2025

The Budget did not announce any changes to the Stage 3 personal income tax changes, which are set to commence from 1 July 2024, as previously legislated. From 1 July 2024, the 32.5% marginal tax rate will be cut to 30% for one big tax bracket between $45,000 and $200,000. This will more closely align the middle tax bracket of the personal income tax system with corporate tax rates. The 37% tax bracket will be entirely abolished at this time.

Therefore, from 1 July 2024, there will only be three personal income tax rates: 19%, 30% and 45%. From 1 July 2024, taxpayers earning between $45,000 and $200,000 will face a marginal tax rate of 30%. With these changes, around 94% of Australian taxpayers are projected to face a marginal tax rate of 30% or less.

Low income offsets:

Low and middle income tax offset (not extended)

The 2022–2023 October Budget did not announce any extension of the low and middle income tax offset (LMITO) to the 2022–23 income year. The LMITO has now ceased and been fully replaced by the low income tax offset (LITO).

The March 2022–2023 Budget had increased the LMITO by $420 for the 2021–2022 income year so that eligible individuals (with taxable incomes below $126,000) received a maximum LMITO up to $1,500 for 2021–2022 (instead of $1,080).

With no extension of the LMITO announced in this October Budget, 2021–2022 was the last income year for which that offset was available.

As a result, low-to-middle income earners may see their tax refunds from July 2023 reduced by between $675 and $1,500 (for incomes up to $90,000 but phasing out up to $126,000), all other things being equal.

Low income tax offset (unchanged)

No changes were made to the LITO in the 2022–2023 October Budget. The LITO will continue to apply for the 2022–2023 income year and beyond. The LITO was intended to replace the former low income and low and middle income tax offsets from 2022–2023, but the new LITO was brought forward in the 2020 Budget to apply from the 2020–2021 income year.

The maximum amount of the LITO is $700. The LITO is withdrawn at a rate of 5 cents per dollar between taxable incomes of $37,500 and $45,000 and then at a rate of 1.5 cents per dollar between taxable incomes of $45,000 and $66,667.

Paid parental leave to be expanded

The Government will expand the paid parental leave (PPL) scheme from 1 July 2023 so that either parent is able to claim the payment, and both birth parents and non-birth parents are allowed to receive the payment if they meet the eligibility criteria. Parents will also be able to claim weeks of the payment concurrently so they can take leave at the same time.

From 1 July 2024, the Government will start expanding the scheme by two additional weeks a year until it reaches a full 26 weeks from 1 July 2026. Both parents will be able to share the leave entitlement, with a proportion maintained on a “use it or lose it” basis, to encourage and facilitate both parents to access the scheme and to share the caring responsibilities more equally. Sole parents will be able to access the full 26 weeks.

The amount of PPL available for families will increase up to a total of 26 weeks from July 2026, benefiting over 180,000 families each year. An additional two weeks will be added each year from July 2024 to July 2026, increasing the overall length of PPL by six weeks.

To further increase flexibility, from July 2023 parents will be able to take Government-paid leave in blocks as small as a day at a time, with periods of work in between, so parents can use their weeks in a way that works best for them.

Further changes to legislation will also support more parents to access the PPL scheme. Eligibility will be expanded through the introduction of a $350,000 family income test, which families can be assessed under if they do not meet the individual income test. Single parents will be able to access the full entitlement each year. This will increase support to help single parents juggle care and work.

Increased Child Care Subsidy rate for household income up to $530,000

The Government will provide $4.7 billion over four years from 2022–2023 (and $1.7 billion per year ongoing) to deliver cheaper child care and reduce barriers to workforce participation. This includes $4.6 billon over four years from 2022–2023 to:

- increase the maximum Child Care Subsidy (CCS) rate from 85% to 90% for families for the first child in care and increase the CCS rate for all families earning less than $530,000 in household income. From July 2023, CCS rates will lift from 85% to 90% for families earning less than $80,000. Subsidy rates will then taper down one percentage point for each additional $5,000 in income until it reaches 0% for families earning $530,000. Families will continue to receive existing higher subsidy rates for their second and subsequent children aged five and under in care, up to 95%;
- maintain current higher CCS rates for families with multiple children aged five or under in child care, with higher CCS rates to cease 26 weeks after the older child's last session of care, or when the child turns six years old;
- task the ACCC to undertake a 12-month inquiry into the cost of child care and the Productivity Commission to conduct a comprehensive review of the child care sector to improve the transparency of the child care sector by requiring large providers to publicly report CCS-related revenue and profits.

The Government will also provide $43.9 millon over four years from 2022–2023 for measures to improve early childhood outcomes for First Nations children.

BUSINESS TAXATION

Previously announced measures: eight abandoned, three deferred

The Labor Government has reviewed a number of tax and superannuation related measures that had been announced by the previous Government, but not enacted. It states in the Budget papers that it will abandon eight of these, while three others will have deferred start dates.

While most of the measures relate to “business taxation”, note that these proposals also include superannuation and personal tax measures.

Finance-related proposals

The following finance-related proposed changes have been abandoned:

- the 2013–2014 Mid-Year Economic and Fiscal Outlook (MYEFO) measure that proposed to amend the debt/equity tax rules;
- the 2016–2017 Budget measure that proposed changes to the taxation of financial arrangements (TOFA) rules;
- the 2016–2017 Budget measure that proposed changes to the taxation of asset-backed financing arrangements; and
- the 2016–2017 Budget measure that proposed introducing a new tax and regulatory framework for limited partnership collective investment vehicles.

Taxation of financial arrangements technical amendments: start date deferred

The 2021–2022 Budget measure that proposed making technical amendments to the TOFA rules has been deferred from 1 July 2022 to the income year commencing on or after the date of assent of the enabling legislation.

Superannuation and retirement

The following proposed superannuation and retirement related measures have been abandoned:

- the 2018–2019 Budget measure that proposed changing the annual audit requirement for certain self managed superannuation funds (SMSFs);
- the 2018–2019 Budget measure that proposed introducing a requirement for retirement income product providers to report standardised metrics in product disclosure statements.

Residency requirements for certain self managed super funds: start date deferred

The 2021–2022 Budget measure that proposed relaxing residency requirements for SMSFs will be deferred from 1 July 2022 to the income year commencing on or after the date of assent of the enabling legislation.

Tax compliance: third-party reporting for electronic distribution platforms, cash payments

The Government intends to defer the start date for the following proposed third-party reporting rules:

- transactions relating to the supply of ride sourcing and short-term accommodation – from 1 July 2022 to 1 July 2023; and
- all other reportable transactions (including but not limited to asset sharing, food delivery and tasking-based services) – from 1 July 2023 to 1 July 2024.

The Government proposes to extend the third-party reporting regime to the operators of electronic distribution platforms (EDPs) that facilitate supplies from one entity to another entity. It will cover platforms operating over the internet, including through applications, websites or other software. However, a service will not be considered to be an electronic distribution platform if it only advertises or creates awareness of possible supplies, operates as a payment platform or serves a communications function.

Transactions will need to be reported to the ATO if they involve the provision of consideration by a buyer to a seller for a supply made through the platform by the seller. Transactions that only involve the sale of goods or real property (the transfer of legal title to the

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goods or real property) or financial supplies will not be captured. The supply must also be connected to the indirect tax zone (ie Australia).

Cash payments proposal abandoned

In addition, the 2018–2019 Budget measure that proposed introducing a limit of $10,000 for cash payments made to businesses for goods and services has been abandoned.

Deductible gifts: pastoral care in schools

The 2021–2022 MYEFO measure that proposed establishing a deductible gift recipient (DGR) category for providers of pastoral care and analogous wellbeing services in schools has been abandoned.

TAX COMPLIANCE AND INTEGRITY

Increased funding for ATO compliance programs

As appears to be standard practice in modern Budgets, the Government will increase funding for the ATO in the following areas. The moral for taxpayers and their advisors is that the ATO will be getting better and better at detecting variances which will require explanation.

Personal Income Taxation Compliance Program

The Government will provide $80.3 million to the ATO to extend the Personal Income Taxation Compliance Program for two years from 1 July 2023. This will focus on key areas of non-compliance, including overclaiming of deductions and incorrect reporting of income (which was the subject of a recent key address by the Second Commissioner). The funding will enable the ATO to modernise its guidance products, engage earlier with taxpayers and tax agents and target its compliance activity.

Shadow Economy Program

The Government will extend the existing ATO Shadow Economy Program for a further three years from 1 July 2023 (read “cash payments”).

Tax Avoidance Taskforce

The Government has boosted funding for the ATO Tax Avoidance Taskforce by around $200 million per year over four years from 1 July 2022, in addition to extending this Taskforce for a further year from 1 July 2025.

The boosting and extension of the Tax Avoidance Taskforce will support the ATO to pursue new priority areas of observed business tax risks, complementing the ongoing focus on multinational enterprises and large public and private businesses.

Modernising Business Registers Program

In a slightly different category, the Government will provide additional ATO and ASIC funding of $166.2 million over four years from 2022–2023 to continue delivery of the Modernising Business Registers program that will consolidate more than 30 business registers onto a modernised registry platform.

Digital currencies not foreign currency

The Budget Papers confirm that the Government is to introduce legislation to clarify that digital currencies (such as Bitcoin) continue to be excluded from the Australian income tax treatment of foreign currency. The measure has already been released in draft legislation.

By way of background and as a reminder, this will maintain the current tax treatment of digital currencies, including the CGT treatment where they are held as an investment. This measure removes uncertainty following the decision of the Government of El Salvador to adopt Bitcoin as legal tender, and will be backdated to income years that include 1 July 2021.

The exclusion does not apply to digital currencies issued by, or under the authority of, a government agency, which will continue to be taxed as foreign currency.

SUPERANNUATION

SMSF residency changes delayed

The Government confirmed that the changes to the SMSF residency rules, previously announced in the 2021–2022 Budget to commence from 1 July 2022, will now start from the income year commencing on or after the date of assent of the enabling legislation (yet to be introduced).

These measures propose to relax the SMSF residency rules by extending the central management and control test safe harbour from two to five years, and removing the active member test for both SMSFs and small APRA funds.

Until this 2021–2022 Budget measure is enacted, SMSF trustees need to ensure that they satisfy the current requirements. Even if the central management and control safe harbour is extended to five years from the date of assent, an SMSF trustee still needs to establish (before they leave) that their planned absence from Australia will be “temporary”.

Three-year cycle for SMSF audits will not proceed

The Government will not proceed with the former government’s proposal to change the annual audit requirement for certain SMSFs to allow a three-yearly cycle for funds with a history of good record-keeping and compliance.

The measure, previously announced in the 2018–2019 Budget, was proposed to apply to SMSF trustees that have a history of three consecutive years of clear audit reports and that have lodged the fund’s annual returns in a timely manner.

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While the Government did not provide any reasons in the Budget papers for abandoning this proposal, the SMSF audit industry has previously flagged concerns that moving to a three-yearly audit cycle could result in increased non-compliance. The SMSF audit industry had also expressed concern that altering its workflow (and reducing profitability) could potentially lead to a reduction in the number of businesses specialising in SMSF audits and lower quality audits.

Standardised disclosure for retirement income products

The Government also announced that it will not proceed with the proposal to report standardised metrics in product disclosure statements (PDS) for retirement income products.

The former government had proposed to mandate a simplified disclosure document to support the development of the comprehensive income product for retirement (CIPR) framework. The related consultation paper proposed a simplified disclosure document with a range of standardised metrics to assist retirees to assess how a retirement income product aligns with their own preferences in relation to potential income, variations in income, access to capital, death benefits and risk management. The proposed metrics would have been presented as fact sheets to supplement existing disclosure documents.

Super downsizer contributions eligibility age reduction to 55 confirmed

The Government confirmed its election commitment to lower the minimum eligibility age for making superannuation downsizer contributions to age 55 (down from age 60).

The reduction in the eligibility age will allow individuals aged 55 or over to make an additional non-concessional contribution of up to $300,000 from the proceeds of selling their main residence outside of the existing contribution caps. Either the individual or their spouse must have owned the home for 10 years.

As under the current rules, the maximum downsizer contribution is $300,000 per contributor (ie $600,000 for a couple), although the entire contribution must come from the capital proceeds of the sale price. A downsizer contribution must also be made within 90 days after the home changes ownership (generally the date of settlement).

Assets test exemption for two years; deeming rates frozen

The Government also confirmed its election commitments to assist pensioners looking to downsize their homes, by extending the social security assets test exemption for principal home sale proceeds from 12 months to 24 months; and changing the income test to apply only the lower deeming rate (0.25%) to principal home sale proceeds when calculating deemed income for 24 months after the sale of the principal home.

HOUSING MEASURES

Regional First Home Buyers Guarantee Scheme; Housing Australia Future Fund

The Government has announced that it will establish a Regional First Home Buyers Guarantee. Its aim will be to encourage home ownership in regional locations.

It will apply to eligible citizens and permanent residents who have lived in a regional location for more than 12 months to purchase their first home in that location with a minimum 5% deposit. It aims to reach 10,000 places per year to 30 June 2026. It will fund this by redirecting funding from the Regional Home Guarantee component of the 2022–2023 March Budget measure titled Affordable Housing and Home Ownership.

In other measures, the Government will invest $10 billion in the newly created Housing Australia Future Fund, to be managed by the Future Fund Management Agency. Its aim will be to generate returns to fund the delivery of 30,000 social and affordable homes over five years and allocate $330 million for acute housing needs.

The Government will also "broaden the remit" of the National Housing Infrastructure Facility to directly support new social and affordable housing in addition to financing critical housing infrastructure.

New Housing Accord: $350 million in Government funding

The Government announced that it has struck a new national Housing Accord between state and territory governments, investors and other key stakeholders. This Housing Accord sets an initial, aspirational target of 1 million new homes over five years from 2024.

Under the Accord, the Government will commit $350 million over five years to deliver 10,000 affordable dwellings at an energy efficiency rating of seven stars or greater (or a state or territory's minimum standard). This commitment is in addition to the 30,000 new social and affordable dwellings delivered through the Housing Australia Future Fund. The states and territories will also build on this commitment by providing in-kind or financial contributions that enable delivery of up to an additional 20,000 homes in total.

By delivering an ongoing funding stream to help cover the gap between market rents and subsidised rents, the Government believes it will make more projects commercially viable to attract much-needed investor capital to the sector.

The Government said it has secured endorsement from institutional investors, including superannuation funds, for the Accord. Investors will work constructively with Accord parties to optimise policy settings that facilitate institutional investment in affordable housing.

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