Federal Budget | October 2022: Budget Alert

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INDIVIDUALS & PERSONAL TAXATION

There are no new direct taxation measures for individual taxpayers or changes to tax rates and offsets. There are however updates to ongoing taxpayer compliance. For completeness, the current rates are as follows:

Low and Middle Income Tax Offset (LMITO)

There was no change to the LMITO, meaning that it was applicable to income earned in the 2022 financial year and is not applicable after 30 June 2022.

The offset was increased to $1,500 for the 2022 financial year and applied as follows to the following income levels:

Wage	Offset
$37,000 or less	$675
Between $37,001 and $48,000	$675 plus 7.5 cents for every dollar above $37,000 up to a max of $1,500
Between $48,001 and $90,000	$1,500
Between $90,001 and $126,000	$1,500 minus three cents for every dollar of the amount above $90,000

Personal tax rates

The stage 3 tax cuts legislated to apply from 1 July 2024 have been the subject of much debate and discussion lately. The Government remains committed to their election promise of not changing the course and thus there are no anticipated changes to individual resident tax rates.

Current resident tax rates for financial year 1 July 2022 to 30 June 2023 are:

Rate	Threshold
0%	$0 - $18,200
19%	$18,201
32.5%	$45,001
37%	$120,001
45%	$180,001

Medicare is an additional 2% where applicable, so the top marginal rate is effectively 47%

Based on current legislation resident tax rates from 1 July 2024 will become:

Rate	Threshold
0%	$0 - $18,200
19%	$18,201 - $45,000
30%	$45,001 - $200,000
45%	$200,001+

ATO funding and compliance programs

There are two announcements on tax compliance that relate to individual taxpayers, with increased funding provided to the ATO to carry out these programs:

+ Personal income tax compliance – providing the ATO with $80m to extend the Personal Income Taxation Compliance Program for 2 years from 1 July 2023. Intended to enable the ATO to act in key areas of non-compliance, including overclaiming of deductions and incorrect reporting of income. The ATO will also modernise guidance products, engage earlier with taxpayers and agents and target compliance activity.
+ ATO Compliance Shadow Economy Program – program to be extended for a further 3 years from 1 July 2023. The aim is a strong and co-ordinated response to target the shadow economy and is projected to increase receipts by $2.1 billion over 4 years, with an increase in GST payments to States and Territories of $442 million. This can apply to individuals or business entities that are operating in the shadow economy and not complying with their tax obligations.

Digital currency

This is applicable to all taxpayers, including individual taxpayers who use and/or trade in cryptocurrencies. The Government will legislate that digital currency (cryptocurrencies) are excluded from the Australian income tax treatment of foreign currency. This is currently the ATO's view, but will be legislated in response to El Salvador adopting Bitcoin as legal tender last year.

SUPERANNUATION

There was only one announcement made in relation to superannuation, which is already before Parliament and should not be far away from passing into law and receiving Royal Assent. There was an update provided on some unlegislated announcements from the previous Government.

Further reducing eligibility for Downsizer Contributions from age 60 to age 55

Downsizer contributions have been in place for several years and are designed to encourage older Australians to consider downsizing their house, freeing up the stock of larger homes for younger families.

Provided the house is at least partially covered by the main residence exemption and has been owned for over 10 years, the downsizer contribution allows people to make a one-off, post-tax contribution to their superannuation of up to $300,000 per person from the proceeds of selling their home. Both members of a couple can contribute in respect of the same home, and contributions do not count towards non-concessional contribution caps.

The reduction of the eligibility age to make downsizer contributions into superannuation down to age 60 from 1 July 2022 is now planned to reduce even further down to 55 years of age. This will have effect from the start of the first quarter after Royal Assent of the enabling legislation, which could be as soon as 1 January 2023.

Unlegislated announcements from the previous Government

The following announcements from earlier Budgets of the previous Government that have yet to be legislated that will not be proceeding are:

+ The 2018–19 Budget measure that proposed changing the annual audit requirement for certain self-managed superannuation funds (SMSFs). This proposed a 3 year audit cycle instead of annual audits as is currently required.
+ The 2018–19 Budget measure that proposed introducing a requirement for retirement income product providers to report standardised metrics in product disclosure statements.

Further, the Government will defer the start dates of the following legacy tax and superannuation measures to allow sufficient time for policies to be legislated and implemented:

+ The 2021–22 Budget measure that proposed relaxing residency requirements for SMSFs, from 1 July 2022 to the income year commencing on or after the date of Royal Assent of the enabling legislation.

BUSINESS TAXATION

Most of the business taxation measures announced relate to compliance and multinational business groups and are listed below. Before getting into that it is worth reviewing some of the current and recently announced tax changes that expire this year and commence next financial year.

Instant asset write-off / Temporary full expensing of assets

Last year's announcement of full expensing of depreciable assets for businesses with turnover under $5 billion was one of the biggest Budget outlays ever made. It has twice been extended for a further 12 months and will expire on 30 June 2023. Any eligible assets need to be delivered and installed ready for use by this date.

Full expensing in the year of first use applies to new depreciable assets and the cost of improvements to existing eligible assets. For small and medium sized businesses (with aggregated annual turnover of less than $50 million), full expensing also applies to second-hand assets.

Temporary full expensing was extended to allow eligible businesses with aggregated annual turnover or total income of less than $5 billion to deduct the full cost of eligible depreciable assets of any value, acquired from 7:30pm AEDT on 6 October 2020 and first used or installed ready for use by 30 June 2023.

This measure doubles as an incentive for businesses to purchase new equipment, whilst also presenting a marketing opportunity for businesses of all sizes which supply depreciable assets.

Carry back tax losses

Another initiative announced last year that was extended for another year. Tax law allows eligible companies to carry back tax losses from the 2022-23 income years to offset previously taxed profits in 2018-19 or later income years when they lodge their 2022-23 tax return.

Corporate tax entities with an aggregated turnover of less than $5 billion can apply tax losses against taxed profits in a previous year, generating a refundable tax offset in the year in which the loss is made. The tax refund would be limited by requiring that the amount carried back is not more than the earlier taxed profits and that the carry back does not generate a franking account deficit. The tax refund will be available on election by eligible businesses when they lodge their 2022-23 tax returns.

Technology and Skills Boost Deductions

Exposure draft legislation is in place for both of these investment boost deductions. There are several similarities and a couple of key differences between the two.

In current draft form, the key points of the **Technology Investment Boost** are:

+ An additional 20% deduction is available for eligible expenditure incurred between 19:30 29th March 2022 and 30 June 2023.
+ Eligible expenditure must be incurred on digital enabling items or digital media and marketing on digital operations or on digitising operations, including e-commerce.
+ The bonus deduction is capped at $20,000, so applicable to the first $100,000 of expenditure.
+ An eligible entity will be a "small business entity" under current tax laws, or an entity that has aggregated turnover below $50 million.
+ Ineligible expenditure includes salary and wages, capital works, financing costs, training and education and costs that relate to trading stock.

In current draft form, the key points of the **Skills and Training Boost** are:

+ An additional 20% deduction is available for eligible expenditure incurred between 19:30 29th March 2022 and 30 June 2024.
+ Eligible expenditure is for training in person in Australia or online anywhere in the world.
+ The training must be charged by a Registered Training Provider and must be within the scope of their registration.
+ There is no limit on the amount of expenditure.
+ The training must be for employees, so is not applicable for owners who are not employees or sole-traders.
+ An eligible entity will be a "small business entity" under current tax laws, or an entity that has aggregated turnover below $50 million.

Taxation Measures

A number of the Budget measures announced and included in the papers are already in various stages of consultation or draft legislation. For completeness, here are the announcements:

+ **Depreciation** – no longer going ahead with self-assessment of effective life of intangible assets. This is a reversal of a 2021-22 Budget announcement, so ensures the current status quo remains, meaning that effective life is set by statute.
+ **Powering Australia Electric Car Discount** – the Government is pushing ahead with their announcement to exempt battery and plug-in hybrid vehicles from FBT and import tariffs if they have a first retail price below the luxury car tax threshold for fuel-efficient cars. The car must not have been held or used before 1 July 2022.
+ **Covid-19 business grants non-assessable non-exempt income** – the list of State & Territory business grants paid in response to the COVID-19 pandemic to be made tax exempt has been expanded. This is for grants paid prior to 30 June 2022.
+ **Off-market share buy-backs** – improve the integrity of the tax system by aligning tax treatment of off-market share buy-backs undertaken by listed public companies with on-market share buybacks.
+ **Multinational Tax Integrity Package** – changes to Thin Capitalisation rules intended to apply from 1 July 2023 and estimated to increase receipts by $720 million over 4 years. The Government will replace the safe harbour and worldwide gearing tests in the current rules with an earnings based test to limit debt deductions in line with an entity's activities and profits. There will be a limitation on debt related deductions if the rules apply and deductions denied under certain tests can be carried forward to a subsequent year for up to 15 years. Thin capitalisation generally applies to members of a multinational group with debt deductions that exceed $2.5 million for the year.
+ **Multinational Tax Integrity Package** – denying deductions for payments relating to intangibles held in low or no tax jurisdictions. This will apply to entities that are members of a worldwide group with turnover that exceeds $1 billion AUD and will prevent claiming tax deductions for payments to related parties in relation to intangibles in low/no tax jurisdictions. A low or no tax jurisdiction is one with a tax rate of less than 15% or a tax preferential patent box regime without sufficient economic substance. This applies from 1 July 2023 and is expected to increase receipts by $250 million over the next 4 years.
+ **Multinational Tax Integrity Package** – improved tax transparency. The Government will introduce reporting requirements for large multinationals, public companies and tenderers for Australian Government contracts worth more than $200,000. The reporting requirements will disclose certain information to the public for income years commencing from 1 July 2023.

Unlegislated measures from the previous Government

Under the banner of providing greater certainty, the Government has reviewed and **will not proceed** with the following legacy tax measures that were announced but not legislated by the previous Government:

- The 2013-14 MYEFO measure that proposed to amend the debt/equity tax rules.
- The 2016–17 Budget measure that proposed changes to the taxation of financial arrangements (TOFA) rules (a delayed start date was announced in 2018–19 Budget).
- The 2016–17 Budget measure that proposed changes to the taxation of asset-backed financing arrangements.
- The 2016–17 Budget measure that proposed introducing a new tax and regulatory framework for limited partnership collective investment vehicles.
- The 2021–22 MYEFO measure that proposed establishing a deductible gift recipient category for providers of pastoral care and analogous well-being services in schools.

Further, the Government will **defer the start dates** of the following legacy tax and superannuation measures to allow sufficient time for policies to be legislated and implemented:

- The 2019–20 MYEFO measure that proposed introducing a sharing economy reporting regime, from:
  - 1 July 2022 to 1 July 2023 for transactions relating to the supply of ride sourcing and short-term accommodation, and
  - 1 July 2023 to 1 July 2024 for all other reportable transactions (including but not limited to asset sharing, food delivery and tasking-based services).
- The 2021–22 Budget measure that proposed making technical amendments to the TOFA rules, from 1 July 2022 to the income year commencing on or after the date of Royal Assent of the enabling legislation.

Should you have any questions on the information above, please contact us.