

# Labor Government 2023–24 Tax & Superannuation Federal Budget Report

The Federal Treasurer, Dr Jim Chalmers, handed down the Labor Government’s second Federal Budget at 7:30 pm (AEST) on 9 May 2023.

Despite an uncertain global economic climate, the Budget forecasts the underlying cash balance to be in surplus by \$4.2 billion in 2022–23, the first surplus since 2007–08, followed by a forecast deficit of \$13.9 billion in 2023–24.

Putting forward a “responsible budget” for uncertain economic times, the Treasurer has described the tax measures as “modest, but meaningful”, including changes to the Petroleum Resources Rent Tax and confirmation of a 1 January 2024 implementation of the BEPS Pillar Two global minimum tax rules.

A range of measures provide cost-of-living relief to individuals such as increased and expanded JobSeeker payments and better access to affordable housing. No changes were announced to the Stage 3 personal income tax cuts legislated to commence in 2023–24.

As part of the measures introduced for small business, a temporary \$20,000 threshold for the small business instant asset write-off will apply for one year, following the end of the temporary full expensing rules. Several tax measures of the former Coalition government have also been amended or dropped, including the patent box tax incentive measures.

The full Budget papers are available at [budget.gov.au](https://budget.gov.au) and the Treasury ministers’ media releases are available at [ministers.treasury.gov.au](https://ministers.treasury.gov.au). The tax, superannuation and social security highlights are set out below.

## 2023–24 FEDERAL BUDGET TAX, SUPERANNUATION, AND SOCIAL SECURITY HIGHLIGHTS HIGHLIGHTS

### Businesses

- The instant asset write-off threshold for small businesses applying the simplified depreciation rules will be \$20,000 for the 2023–24 income year.
- An additional 20% deduction will be available for small and medium business expenditure supporting electrification and energy efficiency.
- FBT exemption for eligible plug-in hybrid electric cars will end from 1 April 2025.
- An increased capital works deduction rate and reduced withholding on managed investment trust (MIT) payments will apply to new build-to-rent projects.
- The clean building managed investment trust (MIT) withholding tax concession will be extended from 1 July 2025 to eligible data centres and warehouses, where construction commences after 7:30 pm (AEST) on 9 May 2023.
- The start date of a measure to prevent franked distributions funded by certain capital raisings announced in the 2016–17 Mid-Year Economic and Fiscal Outlook has been postponed from 19 December 2016 to 15 September 2022.
- The patent box regime announced in the Coalition government's 2021–22 Budget, and expanded in the 2022–23 Budget, will not proceed.
- The introduction of tradeable biodiversity stewardship certificates issued under the Agriculture Biodiversity Stewardship Market scheme will be delayed to 1 July 2024.
- The Location Offset rebate and the Qualifying Australian Production Expenditure thresholds will be increased to boost investment in film production in Australia.
- Deductible gift recipients list to be updated.

### Individuals

- Income support payment base rates will be increased by \$40 per fortnight.
- The minimum age for which older people qualify for the higher JobSeeker Payment rate will be reduced from 60 to 55 years.
- The workforce participation incentive measures to support pensioners who want to work without impacting their pension payments will be extended for another 6 months to 31 December 2023.

- Eligibility for Parenting Payment (Single) will be extended to support single principal carers with a youngest child under 14 years of age.
- Housing measures will be introduced to increase support for social and affordable housing and improve access for home buyers.
- The maximum rates of the Commonwealth Rent Assistance (CRA) allowances will be increased by 15% to help address rental affordability challenges for CRA recipients.
- CPI indexed Medicare levy low-income threshold amounts for singles, families, and seniors and pensioners for the 2022–23 year announced.
- Eligible lump sum payments in arrears will be exempt from the Medicare levy from 1 July 2024.

### Multinationals

- Australia will implement key aspects of the Pillar Two solution of the OECD/G20 BEPS Project, meaning certain large multinationals will be subject to a 15% minimum tax in the jurisdictions in which they operate.
- The scope of the general anti-avoidance rules in Pt IVA of ITAA 1936 will be expanded from 1 July 2024.
- Changes will be made to petroleum resource rent tax (PRRT), including the introduction of a cap on deductible expenditure at 90% of assessable income for projects that produce liquefied natural gas from 1 July 2023.
- The meaning of “exploration for petroleum” in the petroleum resource rent tax legislation will be amended to reflect the government's intent and ATO guidance.
- Taxation legislation will be amended to realign the taxation law with the reissued AASB 17: Insurance contracts effective for income years beginning from 1 January 2023.

### Superannuation

- Superannuation earnings tax concessions will be reduced for individuals with total superannuation balances in excess of \$3 million from 1 July 2025.
- Employers will be required to pay their employees' superannuation guarantee entitlements at the same time as they pay their salary and wages from 1 July 2026.
- The non-arm's length income (NALI) provisions will be amended to provide greater certainty to taxpayers.

## Tax administration

- Funding will be provided to the ATO over 4 years to lower the tax-related administrative burden for small and medium businesses, cut paperwork and reduce time small businesses spend doing taxes.
- Reduction in GDP adjustment factor for pay as you go and GST instalments.
- Funding to improve the administration of student loans.
- Additional funding will be provided to address the growth of businesses' tax and superannuation liabilities, and a temporary lodgment penalty amnesty program will be provided to small businesses.
- The Personal Income Tax Compliance Program will be extended for 2 years from 1 July 2025 and its scope expanded from 1 July 2023.

## GST and other indirect taxes

- Funding for GST compliance will be extended for a further 4 years to address emerging risks to GST revenue.
- The Heavy Vehicle Road User Charge rate will increase 6% per year from 2023–24 to 2025–26.
- Indirect Tax Concession Scheme: diplomatic and consular concessions extended.
- The start date for streamlining of excise administration measures announced in the Coalition government's 2022–23 Budget will be amended.
- Tobacco excise and excise-equivalent customs duty will be increased by 5% per year for 3 years from 1 September 2023, in addition to ordinary indexation.

## BUSINESSES

### Small business depreciation — instant asset write-off threshold of \$20,000 for 2023–24

The instant asset write-off threshold for small businesses applying the simplified depreciation rules will be \$20,000 for the 2023–24 income year.

Small businesses (aggregated annual turnover less than \$10 million) may choose to calculate capital allowances on depreciating assets under a simplified regime in Subdiv 328-D of ITAA 1997. Under these simplified depreciation rules, an immediate write-off applies for low-cost depreciating assets.

The measure will apply a \$20,000 threshold for the immediate write-off, applicable to eligible assets costing less than \$20,000 first used or installed between 1 July 2023 and 30 June 2024. The \$20,000 threshold will apply on a per asset basis, so small businesses can instantly write-off multiple low-cost assets.

The threshold had been suspended during the operation of temporary full expensing from 6 October 2020 to 30 June 2023.

Assets costing \$20,000 or more will continue to be placed into a small business depreciation pool under the existing rules.

The provisions that prevent a small business entity from choosing to apply the simplified depreciation rules for 5 years after opting out will continue to be suspended until 30 June 2024.

Source: Budget Paper No 2, pp 27–28.

### Increased deductions for small and medium business expenditure on electrification and energy efficiency

An additional 20% deduction will be available for small and medium business expenditure supporting electrification and energy efficiency.

The additional deduction will be available to businesses with aggregated annual turnover of less than \$50 million. Eligible expenditure may include the cost of eligible depreciating assets, as well as upgrades to existing assets, that support electrification and more efficient use of energy. Certain exclusions will apply, including for electric vehicles, renewable electricity generation assets, capital works, and assets not connected to the electricity grid that use fossil fuels.

Examples of expenditure the measure will apply to include:

- assets that upgrade to more efficient electrical goods (eg energy-efficient fridges)
- assets that support electrification (eg heat pumps and electric heating or cooling systems), and
- demand management assets (eg batteries or thermal energy storage).

Total eligible expenditure for the measure will be capped at \$100,000, with a maximum additional deduction available of \$20,000 per business.

When enacted, the measure will apply to eligible assets or upgrades first used or installed ready for use between 1 July 2023 and 30 June 2024. Full details of eligibility criteria will be finalised in consultation with stakeholders.

Sources: Budget Paper No 2, p 28; Treasurer's press release "Small Business Energy Incentive", 30 April 2023

### **FBT exemption for eligible plug-in hybrid electric cars to end**

The FBT exemption for eligible plug-in hybrid electric cars will end from 1 April 2025.

Arrangements involving plug-in hybrid electric cars entered into between 1 July 2022 and 31 March 2025 remain eligible for the exemption.

This measure was originally introduced in the Treasury Laws Amendment (Electric Car Discount) Act 2022.

Source: Budget Paper No 2, p 25.

### **Accelerated deductions and reduced MIT withholding tax for new build-to-rent projects**

An increased capital works deduction rate and reduced withholding on managed investment trust (MIT) payments will apply to eligible new build-to-rent projects where construction commences after 7:30 pm (AEST) on 9 May 2023.

The capital works deduction rate will increase from 2.5% to 4% per year for eligible new build-to-rent projects. Taxpayers can claim a deduction for capital expenditure incurred in constructing capital works, such as income-producing buildings, under Div 43 of ITAA 1997. Currently, the capital works deduction rate of 4% per year only applies in relation to income-producing buildings used mainly for industrial activities and certain buildings providing short-term traveller accommodation.

The final withholding tax rate on fund payments from eligible MIT investments will be reduced to 15% for income from new residential build-to-rent projects. Fund payments to non-residents attributable to MIT residential housing income are currently subject to a final withholding tax rate of 30%. The reduced rate will apply to income attributable to eligible residential build-to-rent projects from 1 July 2024. The reduction was previously proposed in 2019 as part of a Labor party pre-election announcement.

The measure will apply to build-to-rent projects consisting of 50 or more apartments or dwellings made available for rent to the general public. The dwellings must be retained under single ownership for at least 10 years before being able to be sold and landlords will be required to offer a lease term of at least 3 years for each dwelling. Consultation will be undertaken on implementation details, including any minimum proportion of dwellings being offered as affordable tenancies and the length of time dwellings must be retained under single ownership.

Sources: Budget Paper No 2, pp 19–20; Minister for Housing's press release "Billions to boost social and affordable rental homes", 28 April 2023.

### **Clean building MIT withholding tax concession to be extended**

The clean building managed investment trust (MIT) withholding tax concession will be extended from 1 July 2025 to eligible data centres and warehouses, where construction commences after 7:30 pm (AEST) on 9 May 2023.

A final withholding tax rate of 10% applies to fund payments from eligible clean building MITs that are made to non-residents in information exchange countries. An eligible clean building MIT refers to a withholding MIT that holds one or more clean buildings. A clean building MIT cannot derive assessable income from any taxable Australian property other than its clean buildings and assets "reasonable incidental to" those clean buildings.

Eligibility for the concession will be extended to data centres and warehouses that meet the relevant energy efficiency standard, where construction commences after 7:30 pm (AEST) on 9 May 2023. The measure will also raise the minimum energy efficiency requirements for existing and new clean buildings to a 6-star (currently 5-star) rating from the Green Building Council Australia or a 6-star (currently 5.5-star) rating under the National Australian Built Environment Rating System. Consultation will be undertaken on transitional arrangements for existing buildings.

The measure will apply from 1 July 2025 when enacted.

Source: Budget Paper No 2, p 18.

### **Franked distributions funded by capital raisings — start date postponed**

A The start date of a measure to prevent franked distributions funded by certain capital raisings announced in the 2016–17 Mid-Year Economic and Fiscal Outlook (MYEFO) has been postponed to 15 September 2022.

Certain distributions funded by capital raisings made on or after 15 September 2022 will be prevented from being frankable. The measure ensures such arrangements cannot be put in place to release franking credits that would otherwise remain unused where they do not significantly change the financial position of the entity.

When originally announced, the 2016–17 MYEFO measure was to apply for distributions made after 12:00 pm (AEDT) on 19 December 2016.

The measure was introduced in sch 5 to the Treasury Laws Amendment (2023 Measures No 1) Bill 2023 with a revised application date of 15 September 2022, to align with the release of the exposure draft legislation for the measure on 14 September 2022. The Bill is currently before the Senate.

Source: Budget Paper No 2, p 13.

### Patent box measures not to proceed

The patent box regime announced in the Coalition government's 2021–22 Budget, and expanded in the 2022–23 Budget, will not proceed. The patent box regime proposed to tax certain corporate income at an effective tax rate of 17%. The patent box measures were to apply to medical and biotechnology, agricultural and low emission innovation.

Some \$400 million will be spent over 4 years to establish an Industry Growth Program supporting Australian small and medium-sized businesses (SMEs) and startups. This support will be directed towards businesses operating in the priority areas of the National Reconstruction Fund (NRF).

The NRF is a fund designed to invest, by way of loans, equity or guarantees, in:

- renewables and low emissions technologies
- medical science
- transport
- value-add in agriculture, forestry and fisheries, and resources
- defence and enabling capabilities.

Over \$50 million has been allocated to the establishment and operation of the National Reconstruction Fund Corporation (NRFC), with an additional \$8 million over 4 years to oversee the NRFC.

Source: Budget Paper No 2, p14, p 163, p 165.

### Delay of biodiversity stewardship certificates

The commencement of the issue of biodiversity stewardship certificates under the Agriculture Biodiversity Stewardship Market scheme, the sale of which would be treated as primary production income, will be delayed from 1 July 2022 to 1 July 2024. This measure was announced in the Coalition government's 2022–23 Budget. The delayed introduction aligns the commencement with the Nature Repair Market (NRP), which is part of the government's Nature Positive Plan.

The NRP will receive \$7.7 million in 2023–24 for the development of a foundation, including detailed rules, or methods, for different types of projects.

Source: Budget Paper No 2, p 77.

### Increased Location Offset incentive to boost film industry

The Location Offset rebate for films will be increased to 30% of Qualifying Australian Production Expenditure (QAPE) from the current 16.5% rate. The increase is intended to attract investment from large-budget screen productions and provide domestic employment and training opportunities. The minimum QAPE thresholds will be increased to \$20 million for feature films (currently \$15 million) and \$1.5 million per hour for television series (currently \$1 million). Funding for these measures have been allocated for 4 years beginning from 2024–25.

Funding of \$0.5 million has also been allocated over 3 years from 2024–25 (and \$0.2 million per year ongoing) for the Australia-India Audio-Visual Co-Production Agreement to enable eligible producers to access the Producer Offset (a refundable tax offset for approved Australian expenditure).

Source: Budget Paper No 2, p 182.

### Deductible gift recipients list to be updated

The list of specifically listed deductible gift recipients (DGRs) will be updated to list the following organisations as DGRs for the following dates:

- The Voice No Case Committee from the day after the entity is registered with the Australian Charities and Not-for-profits Commission to 30 June 2024
- Justice Reform Initiative Limited from 1 July 2023 to 30 June 2028
- Susan McKinnon Charitable Foundation Ltd from 1 July 2023 to 30 June 2028, and
- Transparency International Australia from 1 July 2023.

The following organisations' DGR endorsement will also be extended for the following dates:

- Victorian Pride Centre Ltd from 9 March 2023 to 8 March 2028, and
- Australian Sports Foundation Charitable Fund from 1 July 2023.

The start date for the previously announced listing of 28 entities related to community foundations affiliated with the peak body Community Foundations Australia will be deferred from 1 July 2022 to the date of assent of relevant amendments to the tax law. The 30 June 2027 end date for the listing is removed. DGR status for these foundations will be subject to ongoing endorsement by the Commissioner under new ministerial guidelines.

The listings of Lord Mayor's Charitable Foundation and Foundation Broken Hill Limited will be made consistent with that for other community foundations, including removal of end dates where applicable.

Source: Budget Paper No 2, p 24.

## INDIVIDUALS

### Increased rate for income support payments

Income support payment base rates will be increased by \$40 per fortnight.

The increase will apply to JobSeeker Payment, Youth Allowance, Parenting Payment (Partnered), Austudy, ABSTUDY, Disability Support Pension (Youth) and Special Benefit from 20 September 2023.

Sources: Budget Paper No 2, p 199; Budget Factsheet — Stronger foundations for a better future, p 17.

### Expanded eligibility for higher Jobseeker Payment rate

The minimum age for which older people qualify for the higher JobSeeker Payment rate will be reduced from 60 to 55 years. This applies to those who have received the payment for 9 or more continuous months.

Eligible recipients will receive an increase in their base rate of payment of \$92.10 per fortnight.

Sources: Budget Paper No 2, p 199; Budget Factsheet — Stronger foundations for a better future, p 17

### Workforce participation incentive measures extended

The workforce participation incentive measures to support pensioners who want to enter the workforce, or work more hours, without impacting their pension payments will be extended for another 6 months to 31 December 2023.

Originally announced in the Labor government's 2022–23 Budget, the measure provides age and veterans pensioners a once-off credit of \$4,000 to their Work Bonus income bank and temporarily increases the maximum income bank.

Under this measure, pensioners can earn up to \$11,800 before their pension is reduced.

Source: Budget Paper No 2, p 201

### Improved support for single parents

Eligibility for Parenting Payment (Single) will be extended to support single principal carers with a youngest child under 14 years of age.

The existing eligibility provides support to single principal carers with a child aged under 8 years of age.

Improved support for single parents will provide wellbeing benefits particularly for single mothers, who are overwhelmingly the recipients of this payment, and their children. This measure recognises that caring responsibilities can act as a barrier to employment while also recognising that connections with the labour force are likely to improve economic outcomes throughout a carer's lifetime.

Source: Budget Paper No 2, p 202.

### Increasing the supply of social and affordable housing and making it easier to buy a home

A number of housing measures will be introduced to increase support for social and affordable housing and improve access for home buyers, including:

- increasing the Government-guaranteed liability cap of the National Housing and Finance Investment Corporation (NHFIC) by \$2.0 billion to \$7.5 billion to enable NHFIC to increase its support for social and affordable housing through loans from the Affordable Housing Bond Aggregator
- amending NHFIC's Investment Mandate to require NHFIC to take reasonable steps to allocate a minimum of 1,200 homes to be delivered in each state and territory within 5 years of the Housing Australia Future Fund commencing operation
- expand the eligibility of the Home Guarantee Scheme to:
  - allow any 2 eligible people to be joint applicants for a guarantee beyond spouses and de facto partners
  - allow non-first home buyers who have not owned a property in Australia for at least 10 years to access the First Home Guarantee and Regional Home Guarantee
  - allow a single legal guardian of children to access the Family Home Guarantee
  - allow Australian permanent residents to access the Scheme
- redirecting interest earnings on unallocated NHFIC funds to support more social and affordable housing and delivery of housing priorities.

This measure expands on the Labor government's 2022–23 Budget measure titled “Safer and More Affordable Housing”.

Source: Budget Paper No 2, p 212.

### Increased support for Commonwealth rent assistance recipients

The maximum rates of the Commonwealth Rent Assistance (CRA) allowances will be increased by 15% to help address rental affordability challenges for CRA recipients.

Source: Budget Paper No 2, p 200.

### Medicare low-income thresholds for 2022–23

The CPI indexed Medicare levy low-income threshold amounts for singles, families, and seniors and pensioners for the 2022–23 year of income have been announced. The new thresholds are:

#### Medicare levy low income threshold (at or below which no Medicare levy payable)

Class of people	Single	Family
Individual	\$24,276 (\$23,365)	\$40,939 (\$39,402)
Senior Australians and eligible pensioners	\$38,365 (\$36,925)	\$53,406 (\$51,401)
Threshold increment for each additional dependent child/student	\$3,760 (\$3,619)	

Source: Budget Paper No 2, p 22.

### Exempting lump sum payments in arrears from the Medicare levy

Eligible lump sum payments in arrears will be exempt from the Medicare levy from 1 July 2024.

This measure will ensure low-income taxpayers do not pay higher amounts of the Medicare levy as a result of receiving an eligible lump sum payment, eg as compensation for underpaid wages.

Eligibility requirements will ensure that relief is targeted to taxpayers who are genuinely low-income and should be eligible for a reduced Medicare levy. To qualify, taxpayers must be eligible for a reduction in the Medicare levy in the 2 most recent years to which the lump sum accrues. Taxpayers must also satisfy the existing eligibility requirements of the existing lump sum payment in arrears tax offset, including that a lump sum accounts for at least 10% of the taxpayer's income in the year of receipt.

Source: Budget Paper No 2, p 22.

### MULTINATIONALS

#### Australia will implement BEPS Pillar 2 from 1 January 2024

Australia will implement key aspects of the Pillar Two solution to address tax challenges from digitalisation of the economy for Action 1 of OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.

- A 15% global minimum tax will apply to large multinational enterprises, with the Income Inclusion Rule (IIR) applying to income years starting on or after 1 January 2024 and the Undertaxed Profits Rule (UTPR) applying to income years starting on or after 1 January 2025.
- A 15% domestic minimum tax will apply to income years starting on or after 1 January 2024.

Both the global and domestic minimum tax will be based on the OECD's Global Anti-Base Erosion Model Rules (or GloBE rules). These rules impose a top-up tax on a resident multinational parent or subsidiary company if the group's income is taxed below 15% overseas.

The IIR would allow Australia to apply a top-up tax on a resident multinational company, where the group's income in another jurisdiction is being taxed below the global minimum rate of 15%. The UTPR would allow Australia to apply a top-up tax on a resident subsidiary member of a multinational group if the group's income in another jurisdiction is being taxed below the global minimum rate of 15% and where no IIR applies.

The domestic minimum tax gives Australia first claim on top-up tax for any low-taxed domestic income. If a large multinational company's effective Australian tax rate is below 15%, the

domestic minimum tax enables Australia to collect the revenue that would otherwise be collected via another country's global minimum tax.

The rules apply to multinational enterprises with an annual global revenue of EUR750 million (approximately \$1.2 billion) or more.

Sources: Budget Paper No 2, pp 20–21; Budget Factsheet — Stronger foundations for a better future, p 63.

### Scope of Pt IVA general anti-avoidance rules expanded

The scope of the general anti-avoidance rules in Pt IVA of ITAA 1936 will be expanded to capture schemes that result in reduced Australian tax via lower withholding tax rates on income paid to foreign residents. The reach of this regime will also extend to schemes with a dominant purpose to reduce foreign income tax, so long as it achieves an Australian income tax benefit. The changes will apply to income years starting on or after 1 July 2024, regardless of whether the scheme was entered into before 1 July 2024.

Pt IVA generally applies to schemes entered into with the sole or dominant purpose of obtaining a tax benefit. A “scheme” means any agreement, arrangement, understanding, promise or undertaking — whether express or implied and whether legally enforceable or not — and any scheme, plan, proposal, course of action or course of conduct (s 177A of ITAA 1936). If Pt IVA applies to a scheme, the ATO may cancel the tax benefit, make compensating adjustments and impose substantial penalties.

Source: Budget Paper No 2, p 29.

### Changes to Petroleum Resource Rent Tax (PRRT)

Deductible expenditure for PRRT projects that produce liquefied natural gas (LNG) will be capped at 90% of assessable income from 1 July 2023. The government will also proceed with many recommendations to PRRT contained in the Treasury Review of Gas Transfer Pricing arrangements and the Callaghan Review.

The cap will limit deductible expenditure to 90% of each taxpayer's PRRT assessable receipts in respect of each project interest in the relevant income year (applied after mandatory transfers of exploration expenditure). Unused denied deductions will be carried forward and uplifted at the

government long-term bond rate. Projects will not be subject to the cap until 7 years after the year of first production or from 1 July 2023, whichever is later, to minimise the impacts of upfront payments on project economics. The cap will not apply to certain classes of deductible expenditure in the PRRT — closing-down expenditure, starting base expenditure and resource tax expenditure.

### Recommendations from the Treasury review

The expenditure cap was recommended by Treasury in the Review of Gas Transfer Pricing Arrangements Final Report. Other recommendations that the government will proceed with from the report include:

- requiring projects make an irrevocable election to use the shorter or longer asset life formula from 1 July 2024. This will remove the integrity risk that projects change the operating life of capital projects to benefit from higher rates of return allowable under the shorter asset life formula.
- equalising the treatment of the notional upstream and downstream entities between loss situations and profit situations from 1 July
- 2024 under the residual pricing method (RPM).
- updating the comparable uncontrolled price (CUP) rules from 1 July 2024 to align with the OECD guidelines. In particular, the analysis for the CUP should be broadened to consider all reasonable conditions of a comparable transaction. Reasonably accurate adjustments would continue to be permitted.
- modifying the Advance Pricing Arrangement (APA) rules from 1 July 2024 to provide guidance to industry and the Commissioner on the principles that the Commissioner must have regard to in agreeing an APA. If the RPM is retained, the use of an APA should be limited to circumstances where it is required to give practical effect to the statutory residual profit split.
- updating the regulations for tolling arrangements from 1 July 2024 to support the effective operation of the RPM and to ensure that arm's length/commercial transactions for parts of the LNG production chain (that reflect the underlying resource ownership and risks to parties) are used as far as possible as a reference for establishing a gas transfer price.
- updating both the PRRT general anti-avoidance rule and the arm's length rule from 1 July 2023 to clarify that they apply to the



- Petroleum Resource Rent Tax Assessment Regulation 2015 (PRRT Regulation). This follows a recommendation made by the Callaghan Review that the Government amend the PRRT anti-avoidance rules to be in line with the income tax anti-avoidance rules (see below).
- updating the PRRT Regulation to ensure that, from 1 July 2024, where an LNG facility enters the PRRT regime (either solely for the purposes of the PRRT Regulation or for broader PRRT calculations) for the first time for backfill or tolling purposes, the value of the plant for use in PRRT calculations is the historical cost of the LNG facility, uplifted by the GDP deflator to the date of first production for PRRT purposes.

#### Recommendations from the Callaghan review

The government will proceed with the following 8 recommendations of the Callaghan Review, which were announced but unenacted measures of the former Coalition government:

- allowing PRRT taxpayers to lodge annual returns after they start holding an interest in an exploration permit, retention lease or production lease rather than having to wait until they receive assessable receipts from the project
- granting power to the Commissioner to treat a new project as a continuation of an earlier project, where it would be reasonable to do so
- granting discretion to the Commissioner to recognise more than one project from a production licence area where there are genuinely separate and independent petroleum operations
- extending the option to have all interests held by a group taken together and reported as a single PRRT return to offshore projects
- allowing PRRT taxpayers to adopt a substituted accounting period for PRRT so it can align with their choice to use a substituted accounting period for income tax
- allowing PRRT taxpayers operating with a multiple entry consolidated (MEC) group to make a functional currency choice for PRRT purposes that aligns with the functional currency choice made for income tax purposes
- granting power to the Commissioner to administratively exempt projects from PRRT obligations where they are clearly unlikely to pay PRRT in the foreseeable future, and amending the PRRT anti avoidance rules to be in line with the income tax anti-avoidance rules.

The government will consult on the design and implementation details for the deductions cap and draft PRRT rules later this year. Consultation on other policy changes, including recommendations from the Callaghan Review and the anti-avoidance rules, will be undertaken in early 2024. The government will not remake the PRRT Regulation (due to sunset on 1 April 2026) until legislation implementing the deductions cap has been enacted.

Sources: Budget Paper No 2, p 23; Treasurer's press release Changes to the Petroleum Resource Rent Tax, 7 May 2023.

#### “Exploration for petroleum” meaning clarified; timing of depreciation

- Legislative amendments will be made confirming that mining, quarrying and prospecting rights can only be depreciated for income tax purposes from the time they are used not from the time they are held.
- Legislative amendments will be made to reflect the decision of the Full Federal Court in *FC of T v Shell Energy Holdings Australia Ltd* 2022 ATC 20-816, the Commissioner's application for special leave to appeal to the High Court having been refused.
- Amendments will be made to clarify that mining, quarrying and prospecting rights can only be depreciated for income tax purposes from the time they are used. Merely, holding such assets does not trigger depreciation deductions. The circumstances in which the issue of new rights over areas covered by existing rights lead to tax adjustments will be limited. This limitation will apply in respect of all rights that are acquired or commence to be used from the date of the announcement, ie 9 May 2023.
- The meaning of “exploration for petroleum” in the Petroleum Resource Rent Tax Assessment Act 1987 s 37(1) will also be amended to be consistent with the government's policy intent and the ATO's administrative guidance, as set out in Taxation Ruling TR 2014/9, namely it is limited to the discovery and identification of the existence, extent and nature of the resource, and does not extend to an evaluation of the commercial recoverability of the resource. The amendments will apply to expenditure incurred from 21 August 2013, being the date of application of the ruling.

Source: Budget Paper No 2, p 16.

### **General insurers to continue use of audited financial information for tax returns**

Audited financial reporting information forms the basis of income tax returns for general insurers. The reissue of Australian Accounting Standard AASB 17: Insurance contracts, operative from 1 January 2023, resulted in a misalignment between taxation law and accounting standards and increased compliance costs for general insurers.

The government will amend the taxation legislation to realign the taxation law with the reissued accounting standard, effective for income years beginning on or after 1 January 2023.

Source: Budget Paper No 2, p 14.

## **SUPERANNUATION**

### **Reducing tax concessions for superannuation balances exceeding \$3 million**

Superannuation earnings tax concessions will be reduced for individuals with total superannuation balances in excess of \$3 million.

From 1 July 2025, earnings on balances exceeding \$3 million will incur a higher concessional tax rate of 30% (up from 15%) for earnings corresponding to the proportion of an individual's total superannuation balance that is greater than \$3 million. The change does not impose a limit on the size of superannuation account balances in the accumulation phase and it applies to future earnings, ie it is not retrospective.

Earnings relating to assets below the \$3 million threshold will continue to be taxed at 15%, or zero if held in a retirement pension account.

Interests in defined benefit schemes will be appropriately valued and will have earnings taxed under this measure in a similar way to other interests.

Sources: Budget Paper No 2, p 15; Budget Factsheet — Stronger foundations for a better future, p 63; Treasurer's press release "Superannuation tax breaks", 28 February 2023.

### **Employers to be required to pay super guarantee on payday**

Employers will be required to pay their employees' superannuation guarantee (SG) entitlements at the same time as they pay their salary and wages from 1 July 2026.

Employers are currently required to make SG contributions for an employee on a quarterly basis to avoid incurring a superannuation guarantee charge.

The proposed commencement date of 1 July 2026 is intended to provide employers, superannuation funds, payroll providers and other stakeholders sufficient time to prepare for the change.

Changes to the design of the superannuation guarantee charge will also be required to align with the increased payment frequency. The government will consult with relevant stakeholders on the design of these changes, with the final framework to be considered as part of the 2024–25 Budget.

In addition, funding will be provided to the ATO to, among other things, improve data matching capabilities to identify and act on cases of SG underpayment.

Sources: Budget Paper No 2, p 26; Budget Factsheet — Stronger foundations for a better future, p 62; Assistant Treasurer's press release "Introducing payday super", 2 May 2023.

### **Non-arm's length income (NALI) amendments**

The non-arm's length income (NALI) measure announced by the Coalition government in 2022 will be amended to provide greater certainty to taxpayers.

The Coalition government announced on 22 March 2022 that the non-arm's length expense provisions would be amended to ensure they operated as intended from 1 July 2022.

On 24 January 2023, Treasury released a consultation paper on the following potential amendments to the NALI provisions:

- self-managed superannuation funds (SMSFs) and small APRA funds would be subject to a factor-based approach which would set an upper limit on the amount of fund income taxable as NALI due to a general expenses breach. The maximum amount of fund income taxable at the highest marginal rate would be 5 times the level of the general expenditure breach, calculated as the difference between the amount that would have been charged as an arm's length expense and the amount that was actually charged to the fund. Where the product of 5 times the breach is greater than all fund income, all fund income will be taxed at the highest marginal rate, and
- large APRA-regulated funds would be exempted from the NALI provisions for general expenses of the fund.

To provide greater certainty to taxpayers, the NALI provisions which apply to expenditure incurred by superannuation funds will be amended by:

- limiting income of SMSFs and small APRA regulated funds that are taxable as NALI to twice the level of a general expense.
- Additionally, fund income taxable as NALI will exclude contributions
- exempting large APRA regulated funds from the NALI provisions for both general and specific expenses of the fund, and
- exempting expenditure that occurred prior to the 2018–19 income year.

Source: Budget Paper No 2, pp 13–14

## TAX ADMINISTRATION

### Lowering the tax-related administrative burden for small and medium businesses

The government will provide \$21.8 million over 4 years from 2023–24 (and \$1.4 million per year ongoing) to the ATO to lower the tax related administrative burden for small and medium businesses.

Funding includes:

- \$12.8 million over 3 years from 2023–24 to trial an expansion of the ATO independent review process to businesses with aggregated turnover between \$10 million and \$50 million subject to an ATO audit. The trial will commence on 1 July 2024 and run for 18 months
- \$9.0 million over 4 years from 2023–24 (and \$1.4 million per year ongoing) for 5 new tax clinics from 1 January 2025 to improve access to tax advice and assistance for 2.3 million businesses. Eligibility for funding will be extended to TAFE institutions to improve access to tax clinic services in regional areas.

The measure also delivers reforms to cut paperwork and reduce the time small businesses spend doing taxes:

- from 1 July 2024, small businesses will be permitted to authorise their tax agent to lodge multiple Single Touch Payroll forms on their behalf, reducing paperwork for small businesses
- from 1 July 2024, small businesses will benefit from faster, safer and cheaper income tax refunds by reducing the use of cheques
- from 1 July 2025, small businesses will be permitted up to 4 years to amend their income tax returns, reducing the burden of making revisions.

Source: Budget Paper No 2, p 210.

### Reduction in GDP adjustment factor for pay as you go and GST instalments

The GDP adjustment factor for pay as you go (PAYG) and GST instalments will be set at 6% for the 2023–24 income year, a reduction from 12% under the statutory formula.

The 6% GDP adjustment rate will apply to small businesses and individuals who are eligible to use the relevant instalment methods (up to \$10 million aggregated annual turnover for GST instalments and \$50 million annual aggregate turnover for PAYG instalments) in respect of instalments that relate to the 2023–24 income year and fall due after the enabling legislation receives assent.

Source: Budget Paper No 2, p 27.

### Funding to improve the administration of student loans

From 2022–23 funding of \$87.8 million over 5 years (including \$53.1 million in capital funding, and \$2.0 million per year ongoing) will be provided to improve the administration of student loans and enhance the security and privacy of data holdings.

The funding will include:

- \$42.2 million over 4 years from 2023–24 for the Department of Employment and Workplace Relations to implement a new digital solution to support the efficient and effective administration of the VET Student Loans program
- \$36.9 million over 5 years from 2022–23 (and \$2 million per year ongoing) for the Department of Education to optimise the Tertiary Collection of Student Information system to improve data quality, analytic support and the security of tertiary student loan records
- \$8.7 million over 2 years from 2023–24 for the Commonwealth Ombudsman and the Department of Employment and Workplace Relations to extend the VET FEE-HELP student redress measures by one year to 31 December 2023.

Additionally, from 2022–23, the government will forgo \$5.4 million in receipts over 5 years (and \$15.5 million over 2 years to 2033–34) to support students affected by a delay in the transfer of some historical tertiary education loan records to the ATO. This will mean waiving the following debts for affected loans, as determined at the date of transfer to the ATO:

- historical indexation, as well as indexation that will be applied on 1 June 2023 on loans issued prior to 1 July 2022 under the Higher Education Loan Program, the

VET Student Loans program, the Trade Support Loans program and on loans issued in 2017 and 2018 under the VET FEE-HELP program, and

- outstanding debt for VET FEE-HELP loans issued from 2009 to 2016.

Source: Budget Paper No 2, pp 87–88.

### **Additional funding to address growth of businesses' tax and superannuation liabilities**

Funding will be provided over 4 years from 1 July 2023 to enable the ATO to engage more effectively with businesses to address the growth of tax and superannuation liabilities.

The additional funding will facilitate ATO engagement with taxpayers who have high-value debts over \$100,000 and aged debts older than 2 years where those taxpayers are either public and multinational groups with an aggregated turnover of greater than \$10 million, or privately owned groups or individuals controlling over \$5 million of net wealth.

A lodgment penalty amnesty program is being provided for small businesses with aggregate turnover of less than \$10 million to encourage them to re-engage with the tax system. The amnesty will remit failure-to-lodge penalties for outstanding tax statements lodged in the period from 1 June 2023 to 31 December 2023 that were originally due during the period from 1 December 2019 to 29 February 2022.

Source: Budget Paper No 2, pp 29–30.

### **Extension of personal income tax compliance program**

The Personal Income Tax Compliance Program will be extended for 2 years from 1 July 2025 and its scope expanded from 1 July 2023.

This extension will enable the ATO to continue to deliver a combination of proactive, preventative and corrective activities in key areas of non-compliance, and to expand the scope of the program to address emerging areas of risk, such as deductions relating to short-term rental properties to ensure they are genuinely available to rent.

Source: Budget Paper No 2, p 16.

## **GST AND OTHER INDIRECT TAX**

### **Continued crackdown on GST compliance**

Nearly \$600 million will be allocated, over an additional 4 years, to GST compliance. This is estimated to generate additional GST receipts of \$3.8 billion and the same amount again in other taxes over the 5 years from 2022–23.

This funding extension will support the development of more sophisticated analytical tools to address emerging risks to GST revenue.

Source: Budget Paper No 2, p 19.

### **Fuel tax credits — heavy vehicle road user charge increase**

The Heavy Vehicle Road User Charge rate will be increased from 27.2 cents per litre of diesel fuel, by 6% per year for 3 years, to 32.4 cents. The first year of the increase will be the 2023–24 income year.

Source: Budget Paper No 2, p 175.

### **Indirect Tax Concession Scheme: diplomatic and consular concessions extended**

Refunds of indirect tax (including GST, fuel and alcohol taxes) have been extended under the Indirect Tax Concession Scheme (ITCS). New access to refunds has been provided for construction and renovation arrangements for North Macedonia and Latvia relating to their current and future diplomatic missions and consular posts. Saudi Arabia will also have ITCS access upgraded for its Embassy and current and future Consulate-General.

These concessions are provided in accordance with Australia's international obligations in relation to diplomatic missions and consular posts and will establish reciprocal entitlements for Australian diplomatic missions in these countries.

Source: Budget Paper No 2, p 21.

### Streamlining of excise administration measures start date amended

The start date for some components of the Coalition government's 2022–23 Budget measure: Streamlining excise administration for fuel and alcohol package will be amended from 1 July 2023 to 1 July 2024. The changed start date applies to the measures that:

- remove overlapping Australian Border Force and ATO systems
- streamline license application and renewal requirements
- remove regulatory barriers for excise and excise equivalent customs goods (including lubricants, bunker fuels for commercial shipping industries, and vapour recovery units).

Further, the ATO will publish on its website a public register of entities that hold excise licences to store or manufacture excise and excise equivalent customs goods, from 1 July 2024.

Source: Budget Paper No 2, p 13.

### Tobacco excise measures to improve health outcomes and align the treatment of stick and non-stick tobacco tax

Tobacco excise and excise-equivalent customs duty will be increased by 5% per year for 3 years from 1 September 2023, in addition to ordinary indexation, to encourage smokers to quit.

The government will also align the tax treatment of tobacco products subject to the per kilogram excise and excise-equivalent customs duty (such as roll-your-own tobacco) with the manufactured per-stick rate, by progressively lowering the "equivalisation weight" from 0.7 to 0.6 grams. These progressive decreases will occur on 1 September each year from 2023, with the new weight coming fully into effect from 1 September 2026. This will raise the per kilogram duty accordingly.

The government will expand compliance activity to address illicit tobacco and work with relevant agencies and state and territory governments to develop an appropriate multi-jurisdictional approach.

These changes to tobacco excise are part of the government's response to the National Tobacco Strategy and related initiatives on vaping and smoking prevention and cessation, and an enhanced regulatory approach to vaping.

Source: Budget Paper No 2, p 11.

*We are available to discuss your specific circumstances with you and to assist with any decisions you might be considering. Don't hesitate to get in touch with your Prosperity Adviser today or give us a call on 1800 855 844.*