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EXECUTIVE SUMMARY

[393] 2021-22 Federal Budget: Big spending and tax measures - temporary full expensing/loss carry-back extended; personal tax cut retained; super changes

On Tuesday, 11 May 2021, Treasurer Josh Frydenberg handed down the 2021-22 Federal Budget, his 3rd Budget.

Mr Frydenberg said the Australian economy has rebounded at its fastest pace on record over the latter half of 2020. Nevertheless, the impact of COVID-19 will see the deficit reach $161bn in 2020-21, improving to $106.6bn in 2021-22, before further improving to $57bn in 2024-25.

The Treasurer noted that the 2020-21 deficit is $52.7bn lower than was expected just over 6 months ago at last year's Budget in October 2020. JobKeeper has played its role with nearly one million jobs added since May 2020, Mr Frydenberg said. The Government believes the 2021-22 Budget will consolidate these gains and put the economy on course for the unemployment rate to fall below 5%, reaching 4.75% by the June quarter 2023. Real GDP is forecast to grow by 1.25% in 2020-21, rising to 4.25% in

2021-22 and 2.5% in 2022-23.

To reach these targets the Government has committed $291bn (or 14.7% of GDP) in direct economic support for individuals, households and businesses since the onset of COVID-19. The Budget also adds to the Government's existing infrastructure investment pipeline with a further $15.2bn of infrastructure commitments.

On personal taxation, in an expected announcement, the Government confirmed that it will extend the low and middle income tax offset (LMITO) beyond 2020-21 so that taxpayers will continue to receive the tax offset (between $255 and $1,080) in the 2021-22 income year - see below.

Tax-related measures announced

The major tax-related measures announced in the Budget included:

- ***Personal tax rates*** - no changes were made to personal tax rates, the Government having already brought forward the Stage 2 tax rates to 1 July 2020. The Stage 3 personal income tax cuts remain unchanged and will commence in 2024-25 as already legislated.
- ***LMITO retained for 2021-22*** - the Government will retain the low and middle income tax offset for the 2021-22 income year. The LMITO provides a reduction in tax of up to $1,080.
- ***Temporary full expensing extended*** - the Government will extend the 2020-21 temporary full expensing measures for 12 months until 30 June 2023. This will 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.
- ***Loss carry-back extended*** - the loss years in respect of which an eligible company (aggregated annual turnover of up to $5 billion) can currently carry back a tax loss (2019-20, 2020-21 and 2021-22) will be extended to include the 2022-23 income year.
- ***Individual residency test reformed*** - the Government will replace the existing tests for the tax residency of individuals with a primary "bright line" test under which a person who is physically present in Australia for 183 days or more in any income year will be an Australian tax resident.
- ***Employee share schemes*** - the Government will remove the cessation of employment as a taxing point for the tax-deferred employee share schemes.
- ***ATO debt recovery*** - the AAT will be given the power to pause or modify ATO debt recovery action in relation to disputed debts of small businesses.
- ***Self-education expenses*** - $250 threshold to be removed.

Superannuation and related measures

The key superannuation and related measures announced in the Budget include:

- ***Superannuation contributions work test*** - to be repealed from 1 July 2022 for voluntary non-concessional and salary sacrificed contributions for those under age 75. However, the work test will still apply for personal deductible contributions by those aged 67-74.

- ***SMSF residency rules*** - to be relaxed by extending the central management and control test safe harbour from 2 to 5 years, and removing the active member test for both SMSFs and small APRA funds.
- ***Conversions of legacy income streams*** - individuals will be permitted to exit certain legacy retirement income stream products (excluding flexi-pensions or lifetime products in APRA-funds or public sector schemes), together with any associated reserves, for a 2-year period. Any commuted reserves will not be counted towards an individual's concessional contribution cap. Instead, they will be taxed as an assessable contribution for the fund.
- ***Super Guarantee $450 per month threshold*** - to be removed from 1 July 2022.
- ***Downsizer contributions*** - eligibility age to be lowered from 65 to 60.
- ***First Home Super Scheme*** - to be extended for withdrawals up to $50,000, plus some technical changes for tax and administration errors in applications.
- ***Victims of domestic violence*** - the Government will not proceed with its previous proposal to extend the early release of super to victims of family and domestic violence.
- ***Pension Loans Scheme*** - will be expanded to allow access up to 2 lump sums in any 12-month period (up to a total of 50% of the maximum annual Age Pension); together with a Government guarantee that "No Negative Equity" will apply.

At the same time, the Budget ***did not contain*** any change to the legislated ***Super Guarantee rate increase*** from 9.5% to 10% for 2021-22.

As previously announced, the Budget confirmed:

- ***30% Digital Games Tax Offset*** - for eligible businesses that spend a minimum of $500,000 on qualifying Australian games expenditure (excluding gambling) from 1 July 2022.
- ***Intangible assets depreciation*** - option to self-assess effective life for certain intangible assets (eg intellectual property and in-house software).
- ***Brewers and distillers*** - the excise refund cap for small brewers and distillers will increase to $350,000 from 1 July 2021.
- ***Venture capital*** - a review of the venture capital tax concessions will be undertaken in 2021.
- ***Child care*** - increased subsidies from 1 July 2022.

Where to get Budget documents

The 2021-22 Budget Papers are available from the following website:

- Budget 2021-22 - https://budget.gov.au/

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[394] **Budget highlights: Reuters News**

- by Swati Pandey

Key highlights from the 2021-22 Federal Budget delivered on 11 May 2021 are set out below.

Revenue and expenditure

- Total 2021-22 revenues seen at $496.6 billion (23.3% of GDP) before rising to $578 billion in 2024-25.
- Expenses are seen falling by 12.3% in 2021-22 to $589.3 billion reflecting the cessation of the Government's temporary welfare measures. As a percentage of GDP, total expenses are estimated to reach 32% in 2020-21 and then decline over the forward estimates to 26.4% in 2024-25.

Debt

- Net debt is expected to rise to 34.2% of GDP at June 2022 and peak at 40.9% of GDP at June 2025, before decreasing to 37% of GDP at June 2032.
- Gross debt is projected to rise to surpass $1 trillion at 2022-23 from $829 billion at 2020-21.

COVID-related measures

- A further $1.9 billion allocated for vaccine rollout.
- Budget provides $1.5 billion for COVID-related health services, including testing and tracing, respiratory clinics and telehealth.

Tax

- Tax cuts for over 10 million low- and middle-income earners – individuals will receive up to $1,080 and couples will get $2,160.

Housing

- Government to help another 10,000 first-home buyers build a new home with a 5% deposit.
- Some 10,000 single parents to purchase a home with a 2% deposit.
- Increasing the amount that can be released under the First Home Super Saver Scheme to $50,000 from $30,000.
- To allow those aged over 60 to contribute up to $300,000 to their superannuation fund if they downsize their home, freeing up more housing stock for younger families.

Business

- Budget provides a further $2.1 billion in targeted support for aviation, tourism, arts and international education providers.
- Tax relief for around 1,000 small brewers and distillers.
- Double its commitment to the "JobTrainer" fund to help create new apprenticeships and traineeships.
- Investing $1.2 billion to build digital infrastructure, skills and cyber security.
- Launching a new patent box, under which income earned from new patents developed in Australia will be taxed at a

concessional 17% rate. The patent box will apply to the medical and biotech sectors.

Women, welfare and safety

- $1.7 billion investment in childcare to help boost workforce participation and women's economic security.
- New $1.1 billion funding for women's safety which would deliver more emergency accommodation, legal assistance, counselling and financial support.
- To remove $450 monthly minimum income threshold for superannuation guarantee to help improve economic security for women.

Infrastructure

- Announces $15 billion in additional infrastructure commitments, including for a new intermodal terminal in Melbourne and a new airport in NSW.

Welfare

- To spend $13.2 billion over 4 years for National Disability Insurance Scheme.
- To commit $17.7 billion in new aged care funding.
- A $2.3 billion commitment to mental health care and suicide prevention.
- To commit $2 billion to fund preschools.
- To provide more than $19 billion in funding for universities in 2021-22.

Natural disasters

- A $10 billion government guarantee to make insurance more affordable in Northern Australia.
- More than $600 million for community and household projects to mitigate the impact of natural disasters.
- $170 million to boost internet and mobile coverage in regional Australia, particularly in bushfire-prone areas.

Climate change

- The Budget provides over $480 million in new funding for the environment, including $100 million to protect oceans.
- Investing $1.6 billion to fund priority technologies, including clean hydrogen and energy storage.

National security

- The Budget provides $1.9 billion over the decade to strengthen national security, law enforcement and intelligence agencies.

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PERSONAL TAXATION

[395] Low income offsets - LMITO retained for 2021-22 (but no changes to individual tax rates)

The Government announced in the Budget that the low and middle income tax offset (LMITO) will continue to apply for the 2021-22 income year. Otherwise, the LMITO was legislated to only apply until the end of the 2020-21 income year, with the result that low-to-middle income earners would have seen their tax refunds in 2022 cut by between $255 and $1,080 (for incomes up to $90,000 but phasing out up to $126,000).

Low and middle income tax offset for 2021-22 (unchanged from 2020-21)	
Taxable income (TI)	**Amount of offset**
$0 – $37,000	$255
$37,001 - $48,000	$255 + ([TI – 37,000] × 7.5%)
$48,001 - $90,000	$1,080
$90,001 - 126,000	$1,080 – ([TI – 90,000] × 3%)
$126,001 +	Nil

The amount of the LMITO is $255 for taxpayers with a taxable income of $37,000 or less. Between $37,000 and $48,000, the value of LMITO increases at a rate of 7.5 cents per dollar to the maximum amount of $1,080. Taxpayers with taxable incomes from $48,000 to $90,000 are eligible for the maximum LMITO of $1,080. From $90,001 to $126,000, LMITO phases out at a rate of 3 cents per dollar.

Consistent with current arrangements, the LMITO will be received on assessment after individuals lodge their tax returns for the 2021-22 income year.

Low income tax offset

The low income tax offset (LITO) will also continue to apply for 2021-22 income year. The LITO was intended to replace the former low income and low and middle income tax offsets from 2022-23, but the new LITO was brought forward in the 2020 Budget to apply from the 2020-21 income year.

Low income tax offset for 2021-22 (unchanged from 2020-21)	
Taxable income (TI)	**Amount of offset**
$0 – $37,500	$700
$37,501 - $45,000	$700 - ([TI - $37,500] × 5%)
$45,001 - $66,667	$325 - ([TI - $45,000] × 1.5%)
$66,668 +	Nil

The maximum amount of the LITO is $700. The LITO will be 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.

Source: Budget Paper No 2 [p 27]

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[396] Personal tax rates unchanged for 2021-22; Stage 3 start from 2024-25 unchanged

In the Budget, the Government did not announce any personal tax rates changes, having already brought forward the Stage 2 tax rates to 1 July 2020 in the October 2020 Budget. The Stage 3 tax changes commence from 1 July 2024, as previously legislated.

Resident rates and thresholds for 2021-22

The 2021-22 tax rates and income thresholds for residents (unchanged from 2020-21) are:

Tax rates and income thresholds for 2021-22 (unchanged from 2020-21)	
Taxable income ($)	**Tax payable ($)**
0 - 18,200	Nil
18,201 - 45,000	Nil + 19% of excess over 18,200
45,001 - 120,000	5,092 + 32.5% of excess over 45,000
120,001 - 180,000	29,467 + 37% of excess over 120,000
180,001+	51,667 + 45% of excess over 180,000

Stage 3: rates and thresholds from 2024-25 onwards

The Stage 3 tax changes 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 3 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.

Resident rates and thresholds - from 2024-25 onwards

The tax rates and income thresholds from the 2024-25 for residents (as already legislated) are:

Tax rates and income thresholds - from 2024-25 onwards	
Taxable income ($)	**Tax payable ($)**
0 - 18,200	Nil
18,201 - 45,000	Nil + 19% of excess over 18,200
45,001 - 200,000	5,092 + 30% of excess over 45,000
200,001+	51,592 + 45% of excess over 200,000

Rates and threshold tables - summary

Tax rates and income thresholds			
Rate	**2020-21**	**2021-22 to 2023-24**	**From 1.7.2024 (unchanged)**
Nil	$0 - $18,200	$0 - $18,200	$0 - $18,200
19%	$18,201 - $45,000	$18,201 - $45,000	$18,201 - $45,000
30%			$45,001 - $200,000
32.5%	$45,001 - $120,000	$45,001 - $120,000	N/A
37%	$120,001 - $180,000	$120,001 - $180,000	N/A
45%	$180,001 +	$180,001 +	$200,001 +
Low and middle income tax offset (LMITO)	Up to $1,080	Up to $1,080	N/A

Low income tax offset (LITO)	Up to $700	Up to $700	Up to $700

Foreign residents

For 2021-22, the tax rates for foreign residents (unchanged from 2020-21) are:

- $0 - $120,000 - 32.5%;
- $120,001 - $180,000 - 37%;
- $180,001+ - 45%.

For 2024-25 and later income years, the tax rates for foreign residents are:

- $0 - 200,000 – 30%;
- $200,001+ - 45%.

Working holidaymakers

For 2021-22, the rates of tax for working holiday makers (unchanged from 2020-21) are:

- $0 - $45,000 – 15%;
- $45,001 - $120,000 - 32.5%;
- $120,001 - $180,000 - 37%;
- $180,001+ - 45%.

For 2024-25 and later income years, the rates of tax for working holiday makers are:

- $0 - $45,000 - 15%;
- $45,001 - $200,000 - 30%;
- $200,001+ - 45%.

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[397] Self-education expenses: $250 threshold to be removed

The Government will remove the exclusion of the first $250 of deductions for prescribed courses of education. The first $250 of a prescribed course of education expense is currently not deductible (below).

This measure is estimated to have a negligible impact on receipts over the forward estimates period.

Background

A limitation on deductibility exists under s 82A of ITAA 1936 in respect of deductions that would otherwise be allowable under s 8-1 if the self-education expenses are necessarily incurred for or in connection with a course of education provided by a place of education (eg school, uni, college etc) and undertaken by the taxpayer for the purpose of gaining qualifications for use in the carrying on of a profession, business or trade or in the course of any employment.

In those circumstances, currently only the excess over $250 may be deductible.

Date of effect

The measure will have effect from the first income year after the date of assent to the enabling legislation.

Source: Budget Paper No 2 [p 26]

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[398] Primary 183-day test for individual tax residency

The Government will replace the existing tests for the tax residency of individuals with a primary "bright line" test under which a person who is physically present in Australia for 183 days or more in any income year will be an Australian tax resident.

Individuals who do not meet the primary test will be subject to secondary tests that depend on a combination of physical presence and measurable, objective criteria.

The new residency rules are based on recommendations made by the Board of Taxation in its 2019 report *Reforming individual tax residency rules — a model for modernisation.*

Date of effect

The new rules will come into effect following Royal Assent of the enabling legislation.

Source: Budget Paper No 2 [p 21]

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[399] Medicare levy low-income thresholds for 2020-21

For the 2020-21 income year, the Medicare levy low-income threshold for singles will be increased to $23,226 (up from $22,801 for 2019-20). For couples with no children, the family income threshold will be increased to $39,167 (up from $38,474 for 2019-20). The additional amount of threshold for each dependent child or student will be increased to $3,597 (up from $3,533).

For single seniors and pensioners eligible for the SAPTO, the Medicare levy low-income threshold will be increased to $36,705 (up from $36,056 for 2019-20). The family threshold for seniors and pensioners will be increased to $51,094 (up from $50,191), plus $3,597 for each dependent child or student.

Date of effect

The increased thresholds will apply to the 2020-21 and later income years. Note that legislation is required to amend the thresholds and a Bill will be introduced shortly.

Source: Budget Paper No 2 [p 24]

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[400] Full income tax exemption for ADF personnel deployed to Operation Paladin

The Australian Government will provide a full income tax exemption for the pay and allowances of Australian Defence Force (ADF) personnel deployed to Operation Paladin from 1 July 2020. Operation Paladin is Australia's contribution to the UN's Truce Supervision Organisation, with ADF personnel deployed in Israel, Jordan, Syria, Lebanon and Egypt.

This measure ensures that ADF personnel are subject to consistent tax treatment regardless of the operational area of Operation Paladin to which they are deployed.

Source: Budget Paper No 2 [p 24]

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[401] Child care subsidies to change 1 July 2022

The Budget confirmed that the Government will make an additional $1.7b investment in child care. The changes will commence on 1 July 2022, ie not in the next financial year. This measures was previously announced on 2 May 2021.

Commencing on 1 July 2022, the Government will:

- increase the child care subsidies available to families with more than one child aged 5 and under in child care by adding an additional 30 percentage point subsidy for every second and third child (stated to benefit around 250,000 families);
- remove the $10,560 cap on the Child Care Subsidy (stated to benefit around 18,000 families).

The Treasurer states that, under the Government's changes, a single parent on $65,500 with 2 children in 5 days of long day care who chooses to work a fifth day will be $71 a week better off compared to the current system. He further states that, under these changes, a family earning $110,000 a year will have the subsidy for their second child increase from 72% to 95%, and would be $95 per week better off for 4 days of care.

Date of effect

1 July 2022.

Source: Treasurer's joint media release, 2 May 2021

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BUSINESS TAXATION

[402] Temporary full expensing: extended to 30 June 2023

The Government will extend the temporary full expensing measure until 30 June 2023. It was otherwise due to finish on 30 June 2022.

Other than the extended date, all other elements of temporary full expensing will remain unchanged.

Background

Currently, temporary full expensing (in Subdiv 40-BB of the *Income Tax (Transitional Provisions) Act 1997*) allows eligible businesses to deduct the full cost of eligible depreciating assets, as well as the full amount of the second element of cost. A business qualifies for temporary full expensing if it is a small business (annual aggregated turnover under $10 million) or has an annual aggregated turnover under $5 billion: s 40-155 of the TPA. Annual aggregated turnover is generally worked out on the same basis as for small businesses, except the threshold is $5 billion instead of $10 million.

There is an alternative test, so a corporate tax entity qualifies for temporary full expensing if (s 40-157 of the TPA):

- its total ordinary and statutory income, other than non-assessable non-exempt income, is less than $5 billion for either the 2018-19 or the 2019-20 income year (including entities with substituted accounting periods in lieu of 30 June 2020 but only those with income years ending on or before 7.30 pm, by legal time in the ACT, on 6 October 2020 (the 2020 Budget time)). If the entity's income year ends after the 2020 Budget time under a substituted accounting period in lieu of the income year ending on 30 June 2020, the $5 billion income test applies for 2018-19 only (this is an integrity measure); and
- the total cost of certain depreciating assets first held and used, or first installed ready for use, for a taxable purpose in the 2016-17, 2017-18 and 2018-19 income years (combined) exceeds $100 million.

If temporary full expensing applies to work out the decline in value of a depreciating asset, no other method of working out that decline in value applies: s 40-145 of the TPA.

Date of effect

Assets must be acquired from 7:30pm AEDT on 6 October 2020 and first used or installed ready for use by 30 June 2023.

Source: Budget Paper No 2 [p 29]; Budget 2021-22 Tax incentives to support the recovery

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[403] Loss carry-back extended by one year

Under the temporary, COVID driven restoration of the loss carry back provisions announced in the 2020-21 Budget, an eligible company (aggregated annual turnover of up to $5 billion) could carry back a tax loss for the 2019-20, 2020-21 or 2021-22 income years to offset tax paid in the 2018-19 or later income years.

The Government will extend the eligible tax loss years to include the 2022-23 income year. Tax refunds resulting from loss carry back will be available to companies when they lodge their 2020-21, 2021-22 and now 2022-23 tax returns. This will help increase cash flow for businesses in future years and support companies that were profitable and paying tax but find themselves in a loss position as a result of the COVID-19 pandemic. Temporary loss carry-back also complements the temporary full expensing measure by allowing more companies to take advantage of expensing, while it is available.

This measure is estimated to decrease receipts by $2.8 billion over the forward estimates period, with a net cost of $1.9 billion over the medium term.

Source: Budget Paper No 2 [p 30]; Budget 2021-22 Tax incentives to support the recovery

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[404] Employee share schemes: cessation of employment removed as a taxing point

The Government will remove the cessation of employment as a taxing point for tax-deferred employee share schemes. There are also other changes that are designed to cut "red tape" for certain employers

Cessation of employment change

Currently, under a tax-deferred ESS, where certain criteria are met employees may defer tax until a later tax year (the deferred taxing point). In such cases, the deferred taxing point is the earliest of:

- cessation of employment;
- in the case of shares, when there is no risk of forfeiture and no restrictions on disposal;
- in the case of options, when the employee exercises the option and there is no risk of forfeiting the resulting share and no restriction on disposal;
- the maximum period of deferral of 15 years.

The change announced in the Budget will result in tax being deferred until the earliest of the remaining taxing points.

Other regulatory changes

The Government will also:

- remove disclosure requirements and exempt an offer from the licensing, anti-hawking and advertising prohibitions for ESS where employers do not charge or lend to the employees to whom they offer the ESS;
- increase the value of shares that can be issued to an employee utilising the simplified disclosure requirements (and exemptions from licensing, anti-hawking and advertising
- requirements) from $5,000 to $30,000 per employee per year (leaving unchanged the absence of such a value cap for listed companies). This will apply to those employers who do charge or lend for issuing employees shares in an unlisted company.

Date of effect

Each of the measures has its own start date.

The removal of the cessation of employment as a taxing point will apply to ESS interests issued from the first income year *after* the date of assent of the enabling legislation.

The other regulatory changes will apply 3 months after assent of the enabling legislation.

Source: Budget Paper No 2 [p 16]; Budget 2021-22 Tax incentives to support the recovery

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[405] Concessional corporate tax rate for medical and biotech patents income

The Government will introduce a so-called "patent box" tax regime which will tax corporate income derived from patents at a concessional effective corporate tax rate of 17%.

The patent box will apply to income derived from Australian medical and biotechnology patents.

This measure is estimated to decrease the underlying cash balance by $206.4 million over the forward estimates period.

Consultation

The Government will consult with industry before settling the detailed design of the patent box. The Government will also consult on whether a patent box would be an effective way of supporting the clean energy sector.

The Government will follow the OECD's guidelines on patent boxes to ensure the patent box meets internationally accepted standards.

Date of effect

The measure will apply from income years starting on or after 1 July 2022.

Only granted patents which were applied for after the Budget announcement will be eligible.

Source: Budget Paper No 2 [p 23]; Budget 2021-22 Tax incentives to support the recovery

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[406] 30% digital games tax offset from 1 July 2022: Govt Digital Economy Strategy

The Government confirmed in the Budget that it will provide a 30% Digital Games Tax Offset from 1 July 2022 as part of its $1.2bn Digital Economy Strategy. This measure was announced on 6 May 2021 by the Treasurer and the Minister for the Digital Economy, Senator Jane Hume. Details are available on the Government's Digital Economy website.

30% Digital Games Tax Offset

The Treasurer said tax incentives will be provided to stimulate investment in digital technologies, including a 30% Digital Games Tax Offset for eligible businesses that spend a minimum of $500,000 on qualifying Australian games expenditure.

Games with gambling elements, or that cannot obtain a classification rating, will not be eligible.

Date of effect

The Digital Games Tax Offset will be available from 1 July 2022 to Australian resident companies or foreign resident companies with a permanent establishment in Australia.

Consultation with industry in mid-2021 will inform the criteria and definition of qualifying expenditure to support the development of digital games.

Other Digital Economy Strategy measures

The Government's broader Digital Economy Strategy also includes:

- ***Self-assessment of effective lives for intangible assets*** - taxpayers will be allowed to self-assess the effective life of certain intangible assets (such as intellectual property and in-house software), rather than being required to use the effective life currently prescribed by statute.
- ***Venture capital tax concessions*** - the Government will undertake an assessment review of the venture capital tax concession programs to ensure they are achieving their intended objectives.
- ***Digital cadetships*** - $10.7m for a new pilot program for work-based digital cadetships. This aims to deliver digital skills in a more flexible and timely way, through a 4-6 month cadetship comprising formal training with on-the-job learning. The Government said it will work with industry to trial the design and delivery of tailored training to meet employers' digital skills requirements, coupled with on-the-job experience provided by host employers.
- ***myGov overhaul and digital ID system*** - the Government will invest $200m to overhaul myGov, to make it easier for people to find the services they need, as well as $302m to enhance the My Health Record and an expansion of the digital identity system. The Government said it will work with States and Territories to promote national identity standards, prevent the misuse of duplicate and fraudulent identity credentials and make it easier for people to keep their personal information up to date.
- ***Proof of identity for foreign nationals and companies*** - the Government is developing initiatives to make it easier for foreign nationals and companies to prove their identity and do business in Australia. This complements the Digital Identity system, which will allow Australians to create a single, secure digital identity which can be reused across multiple services.
- ***Electronic invoicing*** - as part of the Government's commitment in the Digital Business Plan to make e-Invoicing mandatory for government agencies by July 2022, $15.3 will be invested to increase awareness of the value of e-Invoicing for business and increase adoption. This funding will support the Treasury and the Australian Peppol E-Invoicing Authority (ATO) to improve business e-Invoicing awareness and adoption, including through working with payment providers (for example, EFTPOS, Visa, Mastercard and New Payments Platform Australia) to integrate e-Invoicing into the main payment methods used by business to help businesses get paid faster. Supply chain pilots will be conducted with large businesses together with further consultation on potential regulatory and non-regulatory issues. The Commonwealth will also continue to work with States and Territories to extend public sector e-Invoicing adoption.

Source: Budget Paper No 2 [pp 73-76]; Treasurer and Minister for Digital Economy, joint media release, 6 May 2021; Digital Economy Strategy Fact Sheet - Investment Incentives, 6 May 2021; Budget 2021-22 Tax incentives to support the recovery

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[407] Intangible assets depreciation: option to self-assess effective life

The Budget confirmed that the income tax law will be amended to allow taxpayers to self-assess the effective life of certain intangible assets (such as intellectual property and in-house software), rather than being required to use the effective life currently prescribed in the table in s 40-95(7) of the ITAA 1997.

This amendment, previously announced on 6 May 2021 as part of the Government's Digital Economy Strategy, will apply to patents, registered designs, copyrights and in-house software for tax purposes. Taxpayers will be able to bring deductions forward if they self-assess the assets as having a shorter effective life to the statutory life.

Date of effect

The self-assessment of effective lives will apply to eligible assets acquired following the completion of temporary full expensing (introduced in the 2020-21 Budget)), ie to assets acquired from 1 July 2023.

Details are available on the Government's Digital Economy website.

Example - depreciation on self-assessed effective life

In July 2023, Softly Engineering Pty Ltd acquires a patent for a new engineering process relating to 3D printing worth $1.5m. Under the current law, the effective life of the patent is 20 years. However, as 3D printing is developing so fast, Softly self-assess the effective life is only 15 years, before the patent will be replaced with new technology.

Without being able to self-assess, Softly would only be able to deduct $75,000 a year in depreciation costs (assuming Softly applies the prime cost method of depreciation). Under the new regime, the annual deduction would be $100,000 (increasing the deduction by $25,000).

Under the Government's proposed changes, the business will be able to self-assess the effective life of the patent to be more accurate. The change will enable Softly to bring forward the depreciation in order to improve cash flow and invest in the next innovation.

Background

This measure was originally announced on 7 December 2015 as part of the Government's National Innovation and Science Agenda. The measure was previously included in the *Treasury Laws Amendment (2017 Enterprise Incentives No 1) Bill 2017*: see 2017 WTB 13 [379]. However, the Senate amended the Bill in December 2018 to remove the provisions that would have allowed taxpayers to self-assess the effective life of certain intangible depreciating assets.

Source: Budget Paper No 2 [p 14]; Treasurer and Minister for Digital Economy, joint media release, 6 May 2021; *Digital Economy Strategy Fact Sheet - Investment Incentives, 6 May 2021*

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[408] Extended consultation on corporate tax residency rules

In the 2020-21 Budget, the Government announced that it would amend the law to provide that a company that is incorporated offshore will be treated as an Australian tax resident if it has a "significant economic connection to Australia". This test will be satisfied where both the company's core commercial activities are undertaken in Australia and its central management and control is in Australia. As a result the treatment of foreign incorporated companies will reflect the position before the High Court's decision in Bywater.

The Government has now announced that it will consult on broadening this amendment to trusts and corporate limited partnerships. The Government will seek industry's views as part of the consultation on the original corporate residency amendment.

Date of effect

The amendments, as they affect companies incorporated offshore, will have effect from the first income year after the date the enabling legislation receives assent, but taxpayers will have the option of applying the new law from 15 March 2017 (the date on which the ATO withdrew Ruling TR 2004/15). It not known whether the same arrangements will apply for the start date for trusts and corporate limited partnerships should they be brought under the new rules.

Source: Budget 2021-22 Tax incentives to support the recovery

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[409] Corporate collective investment vehicles: revised start date

The Government has announced a revised start date for the tax and regulatory framework for corporate collective investment vehicles (CCIVs).

A CCIV is an investment vehicle with a corporate structure that provides flow- through tax treatment. This investment vehicle will enhance the international competitiveness of the Australian managed funds industry by allowing fund managers to offer investment products using vehicles that are more familiar to overseas investors.

Originally announced in the 2016-17 Budget with a start date of 1 July 2017, the new rules for CCIVs will now commence on 1 July 2022.

CCIVs will be required to meet similar eligibility criteria as managed investment trusts, such as being widely held and engaging in primarily passive investment. Investors in CCIVs will generally be taxed as if they had invested directly.

Source: Budget Paper No 2 [p 13]

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[410] TOFA: hedging and foreign exchange gains and losses

The Government will make technical amendments to the TOFA provisions in Div 230 of the ITAA 1997 which will include facilitating access to hedging rules on a portfolio hedging basis.

The amendments will also reduce compliance costs and correct unintended outcomes, so that taxpayers are not subject to unrealised taxation on foreign exchange gains and losses unless this is elected.

Date of effect

These changes will take effect for relevant transactions entered into on or after 1 July 2022.

Source: Budget Paper 2 [p 29]

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[411] Venture capital tax concessions: Govt to undertake review

As part of its Digital Economy Strategy, the Government will undertake an assessment review of the venture capital tax concession programs to ensure they are achieving their intended objectives. Public consultation will be undertaken in 2021. The programs in scope for the review include:

- Venture Capital Limited Partnerships (VCLPs);
- Early Stage Venture Capital Limited Partnerships (ESVCLPs);
- Australian Venture Capital Fund of Funds (AFOFs); and
- Investments made directly by foreign residents registered under Pt 3 of the *Venture Capital Act 2002*.

Details are available on the Government's Digital Economy website.

Treasurer and Minister for Digital Economy, joint media release, 6 May 2021; *Digital Economy Strategy Fact Sheet - Investment Incentives, 6 May 2021*

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[412] Tax exemption for grants made to businesses affected by storm and floods

The Government will provide an income tax exemption for qualifying grants made to primary producers and small businesses affected by the storms and floods in Australia.

Qualifying grants are Category D grants provided under the *Disaster Recovery Funding Arrangements 2018*, where those grants relate to the storms and floods in Australia that occurred due to rainfall events between 19 February 2021 and 31 March 2021. These include small business recovery grants of up to $50,000 and primary producer recovery grants of up to $75,000. The grants will be made non-assessable non-exempt income for tax purposes.

Source: Budget Paper No 2 [p 12]

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[413] NFP income tax exemption transparency enhancement - new online system

To enhance the transparency of income tax exemptions claimed by not-for-profit organisations (NFPs), the Government will provide $1.9m capital funding to the ATO to develop an online system in 2022-23.

Currently non-charitable NFPs can self-assess their eligibility for income tax exemptions, without an obligation to report to the ATO. From 1 July 2023, the ATO will require income tax exempt NFPs with an active Australian Business Number (ABN) to submit online annual self-review forms with the information they ordinarily use to self-assess their eligibility for the exemption. The online system will ensure NFP income tax exemptions are accessed appropriately.

Source: Budget Paper No 2 [p 22]

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[414] Greenfields exploration incentive extended for 4 years

As previously announced on 5 May 2021 (see 2021 WTB 18 [373]), the Government will extend the *Junior Minerals Exploration Incentive* (JMEI) program for another 4 years from 1 July 2021 to 30 June 2025, with funding of $19.4m each year.

The JMEI program provides a tax incentive where eligible companies are able to create exploration credits by giving up a portion of their tax losses relating to greenfields exploration expenditure, which can then be distributed to new investors as a refundable tax offset or a franking credit.

The Government also said that it will make minor legislative amendments to allow unused exploration credits to be redistributed a year earlier than what it is currently.

Source: Budget Paper No 2 [p 141]

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[415] Excise refund cap to be tripled for small brewers and distillers

The Government confirmed in the Budget that the excise refund cap for small brewers and distillers will increase to $350,000 from 1 July 2021. This measure was previously announced on 1 May 2021.

From 1 July 2021, eligible brewers and distillers will be able to receive a full remission of any excise they pay, up to an annual cap of $350,000, effectively tripling the excise refund cap for small brewers and distillers from $100,000 per year. Currently, eligible brewers and distillers are entitled to a refund of 60% of the excise they pay, up to an annual cap of $100,000.

The media release states that this will align the benefit available under the Excise Refund Scheme for brewers and distillers with the Wine Equalisation Tax (WET) Producer Rebate.

Date of effect

1 July 2021.

Source: Budget Paper No 2 [p 12]; Budget 2021-22 Tax incentives to support the recovery; Treasurer and Assistant Treasurer, joint media release, 1 May 2021

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[416] NZ sporting teams in Australia: NZ to maintain "primary taxing right" (COVID-19)

The Government will ensure that New Zealand maintains what it terms its primary taxing right over members of its sporting teams and support staff in respect of Australian income tax and FBT liabilities that arise from exceeding the 183-day test in the *Convention between Australia and New Zealand for the Avoidance of Double Taxation with Respect to Taxes on Income and Fringe Benefits and the Prevention of Fiscal Evasion* as a result of being located in Australia for league competitions because of COVID-19.

Date of effect

The measure will apply to the 2020-21 and 2021-22 income and FBT years.

Source: Budget Paper No 2 [p 13]

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[417] Update to specifically listed DGRs

The Government has provided an update of organisations approved as specifically listed deductible gift recipients (DGRs) for the following dates:

- Australian Associated Press Ltd from 1 July 2021 to 30 June 2026;
- Virtual War Memorial Limited from 1 July 2021 to 30 June 2026;
- Scripture Union Queensland from 1 July 2021 to 30 June 2023;
- Cambridge Australia Scholarships Limited from 1 July 2021 to 30 June 2026; and
- Foundation 1901 Limited from 1 September 2021 to 31 August 2026.

The Government also said that the specific listing of the East African Fund Limited will be removed at the request of the organization as it is currently operating as the School of St Jude Limited and is a public benevolent institution endorsed by the ATO as a DGR under a general DGR category.

Source: Budget Paper No 2 [p 25]

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TAX COMPLIANCE AND INTEGRITY

[418] Small business to be able to pause disputed ATO debt recovery

The Government will introduce legislation to allow small businesses to pause or modify ATO debt recovery action where the debt is being disputed in the AAT. The Treasurer had ***earlier announced*** this measure on 8 May 2021.

Specifically, the changes will allow the Small Business Taxation Division of the AAT to pause or modify any ATO debt recovery actions – such as garnishee notices and the recovery of GIC or related penalties – until the underlying dispute is resolved by the AAT. This measure is intended to provide an "avenue" for small businesses to ensure they are not required to start paying a disputed debt until the matter has been determined by the AAT.

Small business entities (including individuals carrying on a business) with an aggregated turnover of less than $10 million per year will be eligible to use the option. The AAT will be required to "have regard to the integrity of the tax system" in deciding whether to pause or modify the ATO's debt recovery actions.

The measure is estimated to result in only a small decrease in receipts over the forward estimates period, ie it shouldn't cost much (which may not provide much comfort to small business).

Changes welcomed

The Australian Small Business and Family Enterprise Ombudsman welcomed the changes. The Ombudsman, Mr Bruce ***stated*** that small businesses could save "thousands of dollars in legal fees", as well as up to 2 months waiting for a ruling. The Ombudsman also noted this measure was a key recommendation in its report ***A tax system that works for small business***.

Date of effect

The changes will take effect from the date of assent of the amending legislation.

Source: Budget Paper No 2 [p 19]; Treasurer's media release, 8 May 2021; Budget 2021-22 Tax Incentives to support the recovery

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[419] ATO "early engagement service" for first time foreign investors

A Budget information sheet states that the ATO will introduce a new early engagement service to encourage and support new business investments into Australia. This is not contained within the formal Budget papers themselves.

According to the information sheet, the service will:

- provide "up front" confidence to investors about how Australian tax laws will apply;
- be tailored to the particular needs of each investor;
- offer support in relation to any or all Federal tax obligations;
- accommodate specific project timeframes and other time sensitive aspects of a transaction such as foreign investment review board (FIRB) approvals;
- where binding advice is desired, it will also incorporate access to expedited private binding rulings and advance pricing agreements; and
- integrate with the tax aspects of the FIRB approval process (if applicable) so that
- investors only need to provide information once.

Date of effect

The ATO will consult with business and other stakeholders to develop the early engagement service during May and June 2021. The service will be available for eligible investors from 1 July 2021.

Source: Budget 2021-22 Tax incentives to support the recovery

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[420] List of information exchange jurisdictions updated

The Government will update the list of jurisdictions that are "information exchange countries" for Australian tax purposes.

Residents of listed jurisdictions are eligible to access the reduced MIT withholding tax rate of 15% on fund payments not attributable to non-concessional MIT income.

Added jurisdictions: Armenia, Cabo Verde, Kenya, Mongolia, Montenegro and Oman.

The updated list will be effective from 1 January 2021.

Source: Budget Paper No 2 [p 21]

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SUPERANNUATION

[421] Superannuation contributions work test to be repealed from 1 July 2022

The superannuation contributions work test exemption will be repealed for voluntary non-concessional and salary sacrificed contributions for those aged 67 to 74 from 1 July 2022.

As a result, individuals under age 75 will be allowed to make or receive non-concessional (including under the bring-forward rule) or salary sacrifice contributions from 1 July 2022 without meeting the work test, subject to existing contribution caps. However, individuals aged 67 to 74 years will still have to meet the work test to make personal deductible contributions.

Currently, individuals aged 67 to 74 years (ie under 75) can only make voluntary contributions (both concessional and non-concessional), or receive contributions from their spouse, if they work at least 40 hours in any 30-day period in the financial year in which the contributions are made (the "work test"): reg 7.04 of the SIS Regulations. Note that the work test age threshold was increased from 65 to 67 from 1 July 2020 as part of the 2019-20 Budget.

Date of effect

The measure will have effect from the start of the first financial year after Royal Assent of the enabling legislation, which the Government expects to have occurred prior to 1 July 2022.

Non-concessional contributions and bring forward

The Government confirmed that individuals under age 75 will be able to access the non-concessional bring forward arrangement (ie 3 times the annual non-concessional cap over 3 years), subject to meeting the relevant eligibility criteria. However, note that the Government is still yet to legislate its 2019-20 Budget proposal to extend the bring forward age limit so that anyone under age 67 can access the bring-forward rule from 1 July 2020. The proposed legislation for this 2019-20 Budget measure - *Treasury Laws Amendment (More Flexible Superannuation) Bill 2020* - is yet to be passed by the Senate.

The Government also noted that the existing restriction on non-concessional contributions will continue to apply for people with total superannuation balances above $1.6m ($1.7m from 2021-22).

Source: Budget Paper No 2 [p 19]; Superannuation Budget fact sheet

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[422] SMSF residency requirements to be relaxed

The residency requirements for self-managed superannuation funds (SMSFs) and small APRA-regulated funds (SAFs) will be relaxed by extending the central management and control test safe harbour from 2 to 5 years for SMSFs, and removing the active member test for both fund types.

The SMSF residency test is currently set out in the definition of "Australian superannuation fund" under s 295-95(2) of the ITAA 1997. Complying superannuation fund status, and concessional tax treatment, is restricted to "resident regulated superannuation funds" that satisfy the definition of an "Australian superannuation fund".

The Government said the proposed changes to the residency requirements will allow SMSF and SAF members to continue to contribute to their superannuation fund whilst temporarily overseas, ensuring parity with members of large APRA-regulated funds. It will also provide SMSF and SAF members with flexibility to keep and continue to contribute to their preferred fund while undertaking overseas work and education.

Date of effect

The measure will have effect from the start of the first financial year after Royal Assent of the enabling legislation, which the Government expects to have occurred prior to 1 July 2022.

Source: Budget Paper No 2 [p 28]

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[423] SMSF conversion of legacy income stream products

Individuals will be permitted to exit a specified range of legacy retirement products, together with any associated reserves, for a 2-year period.

The measure will include market-linked income streams (MLIS), life-expectancy and lifetime products. However, ***it will not apply to*** flexi-pension products or a lifetime product in a large APRA-regulated or public sector defined benefit scheme.

These legacy income streams can currently only be converted into another like product, and limits apply to the allocation of any associated reserves without counting towards an individual's contribution caps. The Government said the proposed changes will provide a temporary option to transition from legacy retirement products to more flexible and contemporary retirement products, promoting efficiency and reducing costs in the superannuation system. Importantly, it will not be compulsory for individuals to take part.

The proposed measure will permit full access to all of the product's underlying capital, including any reserves, and allow individuals to potentially shift to more contemporary retirement products.

Currently, individuals are locked into certain products that restrict access to capital and flexibility of drawdowns, preventing them from effectively using their retirement savings for health, aged care, and other large expenses in retirement.

Retirees with these products who choose to will be able completely exit these products by fully commuting the product and transferring the underlying capital, including any reserves, back into a superannuation fund account in the accumulation phase. From there they can decide to commence a new retirement product, take a lump sum benefit, or retain the funds in that account.

Any commuted reserves will not be counted towards an individual's concessional contribution cap and will not trigger excess contributions. Instead, they will be taxed as an assessable contribution of the fund (with a 15% tax rate), recognising the prior concessional tax treatment received when the reserve was accumulated and held to pay a pension.

The existing social security treatment that applies to the legacy product will not transition over for those who elect to take advantage of the conversion. Exiting a product will not cause re-assessment of the social security treatment of the product for the period before conversion. Social security and taxation treatment will not be grandfathered for any new products commenced with commuted funds, and the commuted reserves will be taxed as an assessable contribution.

Existing rules for income streams will continue to apply so that individuals starting a new retirement product will be limited by the transfer balance cap rules. The existing transfer balance cap valuation methods for the legacy product, including on commencement and commutation, continue to apply.

The Government also advised individuals to consider seeking independent financial advice before taking up the option to exit their legacy retirement product.

Products covered

Market-linked, life-expectancy and lifetime products which were first commenced prior to 20 September 2007 from any provider, including self-managed superannuation funds (SMSFs).

Flexi-pension products offered by any provider, and lifetime products offered by a large APRA-regulated defined benefit schemes or public sector defined benefit schemes, ***will not be included.***

Date of effect

Exits will be possible for 2 years commencing from the beginning of the first financial year after Royal Assent of the enabling legislation.

Example 1: Allowing access to reserves

Jill is 80 years old and has a lifetime pension provided by her SMSF. The lifetime pension, which commenced in 2003, has set annual payments and an associated reserve which supports the pension.

Jill thinks that this product no longer suits her needs as she wants to be able to access her superannuation capital as required. Jill commutes the pension including the reserve back into an accumulation account in her SMSF before commencing an account-based pension with all the proceeds. The reserves transferred back to accumulation will be included as assessable income for her SMSF on which she will pay up to 15% tax. Jill has space in her transfer balance cap to commence her new account-based pension.

As the new amount of the account-based pension counts towards the age pension assets test, Jill's part age pension payment rate will be re-assessed. She now has immediate access to all the capital that was supporting the legacy product and more flexibility in how she draws down her superannuation.

Example 2: Interactions with the transfer balance cap

Mark is 75 years old and has a market-linked pension that first commenced in 2005. Mark commutes the market-linked pension back into an accumulation account, before commencing an account-based pension with some of those proceeds. However, Mark cannot move all the proceeds into an account-based pension because he does not have enough space in his transfer balance cap account. Mark retains the rest of the proceeds in the accumulation account, where earnings are taxed at a rate of up to 15%.

Mark decided the exit is worthwhile to gain extra flexibility in accessing his superannuation. He will continue to receive a part age pension payment which will remain relatively unchanged.

Example 3: Social security treatment

Roberta is a 70-year-old single retiree who has a life-expectancy pension, with no reserve, that first commenced in 2007. Roberta commutes the pension back into an accumulation account with a non-SMSF provider. She then commences an account-based pension with the full balance as she has sufficient space under the transfer balance cap. Roberta was primarily exiting to give herself the option to access the monies as tax-free lump-sum benefits should she need to do so.

Her age pension payments also increase because of the conversion. This is because Roberta's age pension amount is being set by the income test, and the deemed income on her new account-based pension is more favourable (a lower amount) than the income from her former life-expectancy pension.

Source: Budget Paper No 2 [p 27]; Superannuation Budget fact sheet

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[424] Super Guarantee $450 per month threshold to be removed

The Superannuation Guarantee $450 per month eligibility threshold will be removed from 1 July 2022. As a result, employers will be required to make quarterly Super Guarantee contributions on behalf of such low-income employees earning less than $450 per month (unless another Super Guarantee exemption applies).

The Retirement Income Review estimated that removing this $450 per month threshold would generate additional Super Guarantee payments each month for around 300,000 low-income individuals (63% of whom are women).

Date of effect

The measure will have effect from the start of the first financial year after Royal Assent of the enabling legislation, which the Government expects to have occurred prior to 1 July 2022.

Source: Budget Paper No 2 [p 26]

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[425] Super Guarantee: no change to legislated rate rise to 10% for 2021-22

The Budget did not announce any change to the timing of the next Super Guarantee (SG) rate increase. The SG rate is currently legislated to increase from 9.5% to 10% from 1 July 2021, and by 0.5% per year from 1 July 2022 until it reaches 12% from 1 July 2025.

Prior to the Budget, there was speculation as to whether the Government may consider delaying this legislated SG rate increase in the interest of promoting spending and jobs, at the expense of workers' retirement savings. ASFA modelling has previously suggested that an average income earner aged 30 today, and on a $70,000 salary would have $71,600 less when retiring at 67 if the SG stayed at 9.5%.

With the SG rate set to increase to 10% for 2021-22 (up from 9.5%), employers need to be mindful that they cannot use an employee's salary sacrificed contributions to reduce the employer's extra 0.5% of super guarantee. The ordinary time earnings (OTE) base for super guarantee purposes now specifically includes any sacrificed OTE amounts. This means that contributions made on behalf of an employee under a salary sacrifice arrangement (defined in s 15A of the *Superannuation Guarantee (Administration) Act 1992* (SGAA)) are not treated as employer contributions which reduce an employer's charge percentage.

SG opt-out for high-income earners

The increase in the SG rate to 10% from 1 July 2021 also means that the SG opt-out income threshold will increase to $275,000 from 1 July 2021 (up from $263,157). High-income earners with multiple employers can opt-out of the SG regime in respect of an employer to avoid unintentionally breaching the concessional contributions cap ($27,500 from 2021-22). Therefore, the SG opt-out threshold from 1 July 2021 will be $275,000 ($27,500 divided by 0.10).

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[426] Downsizer contributions eligibility age reduced to 60

The minimum eligibility age to make downsizer contributions into superannuation will be lowered to age 60 (down from age 65) from 1 July 2022.

The proposed reduction in the eligibility age will mean that individuals aged 60 or over can make an additional non-concessional contribution of up to $300,000 from the proceeds of selling their home. Either the individual or their spouse must have owned the home for 10 years.

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. As under the current rules, a downsizer contribution must be made within 90 days after the home changes ownership (generally the date of settlement).

Downsizer contributions are an important consideration for senior Australians nearing retirement as they do not count towards an individual's non-concessional contributions cap and are exempt from the contribution rules. They are also exempt from the restrictions on non-concessional contributions for people with total superannuation balances above $1.6m ($1.7m from 2021-22). People with balances over the transfer balance cap ($1.7m from 2021-22) are also able to make a downsizer contribution, however the downsizer amount will count towards that cap when savings are converted to the retirement phase.

Date of effect

The measure will have effect from the start of the first financial year after Royal Assent of the enabling legislation, which the Government expects to have occurred prior to 1 July 2022.

Source: Budget Paper No 2 [p 18]

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[427] First Home Super Scheme to be extended for withdrawals up to $50,000

The Budget confirmed that the maximum amount of voluntary superannuation contributions that can be released under the First

Home Super Saver (FHSS) scheme will be increased from $30,000 to $50,000. This measure was previously announced on 8 May 2021. (*Source: Treasurer's joint media release, 8 May 2021*.)

Voluntary contributions made from 1 July 2017 up to the existing limit of $15,000 per year will count towards the total amount able to be released (which includes voluntary concessional and non-concessional contributions).

Currently, the FHSS scheme allows for future voluntary contributions up to $15,000 per year (and $30,000 in total) to be withdrawn for a first home purchase. To be eligible, a person must be 18 years or over, have not used the FHSS scheme before and have never owned real property in Australia. Withdrawals of eligible FHSS contributions (and associated earnings) are taxed at the individual's marginal rate *less* a 30% tax offset. Effectively, the scheme provides a 15% tax saving on money channelled via super for a first home purchase.

Date of effect

The increase in maximum releasable amount to $50,000 will apply from the start of the first financial year after Royal Assent of the enabling legislation, which the Government expects will have occurred by 1 July 2022.

Home Guarantees for single parents and new homes

Other first home buyer measures, announced as part of the Budget, include:

- ***New Home Guarantee*** - to be expanded for a second year, providing an additional 10,000 places in 2021-22. First home buyers seeking to build a new home or purchase a newly built home will be able to do so with a deposit of as little as 5%; and
- ***Family Home Guarantee for single parents*** - to be established with 10,000 guarantees made available over 4 years to single parents with dependants. The Family Home Guarantee allows them to purchase a home sooner with a deposit of as little as 2%.

Source: Budget Paper No 2 [p 17]

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[428] First Home Super Scheme - technical changes for tax and admin errors

The Government will make 4 technical changes to the legislation underpinning the First Home Super Saver (FHSS) Scheme to assist applicants who make errors on their FHSSS release applications by:

- increasing the discretion of the Commissioner of Taxation to amend and revoke FHSS applications;
- allowing individuals to withdraw or amend their applications prior to them receiving a FHSS amount, and allow those who withdraw to re-apply for FHSS releases in the future;
- allowing the Commissioner of Taxation to return any released FHSSS money to superannuation funds, provided that the money has not yet been released to the individual;
- clarifying that the money returned by the Commissioner of Taxation to super funds is treated as funds' non-assessable

non-exempt income and does not count towards the individual's contribution caps.

Date of effect

This measure will apply retrospectively from 1 July 2018.

Source: Budget Paper No 2 [p 17]

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[429] Super early release abandoned for victims of domestic violence

The Government ***will not proceed*** with its previous proposal to extend the early release of superannuation to victims of family and domestic violence.

The Government said that not proceeding with this measure will decrease receipts by $110m over the forward estimates, and decrease payments by $27m, as ATO funding to implement the measure is no longer required.

Treasury had previously released a consultation paper for a new compassionate ground of release to allow victims of family and domestic violence to gain early access to their superannuation up to a total cap of $10,000 per person over a 24-month period: see Treasury consultation paper, Review of Early Release of Superannuation Benefits, November 2018. The Government has also proposed to allow victims of crime to access an offender's superannuation (to commence 12 months after the amending legislation receives assent): see Treasury consultation paper, May 2018.

Source: Budget Paper No 2 [p 15]

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[430] Transfers of unclaimed super to KiwiSaver Scheme - ATO funding

The Government will provide $11m over 4 years from 2021-22 (and $1m per year ongoing) to the ATO to administer the transfer of unclaimed superannuation money directly to New Zealand KiwiSaver accounts.

Legislation has been enacted to enable the Commissioner to pay lost and unclaimed superannuation money directly to KiwiSaver scheme providers. Such payments will be treated as non-assessable non-exempt income in the hands of the individual for Australian tax purposes. This will take effect on a date to be proclaimed or on 11 December 2021, whichever is earlier.

Source: Budget Paper No 2 [p 193]

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[431] Govt Pension Loans Scheme - access to lump sums; no negative equity guarantee

The Government will provide $21.2m over 4 years from 2021-22 to improve the uptake of its Pension Loans Scheme (PLS) by:

- allowing participants to access up to 2 lump sum advances in any 12-month period, up to a total value of 50% of the maximum annual rate of the Age Pension; and

- introducing a No Negative Equity Guarantee so borrowers will not have to repay more than the market value of their property.

No Negative Equity Guarantee

From 1 July 2022, the Government will introduce a No Negative Equity Guarantee for PLS loans and allow people access to a capped advance payment in the form of a lump sum.

A No Negative Equity Guarantee will mean that borrowers under the PLS, or their estate, will not owe more than the market value of their property, in the rare circumstances where their accrued PLS debt exceeds their property value. This brings the PLS in line with private sector reverse mortgages.

Immediate access to lump sums under the PLS

Eligible people will be able to receive a maximum lump sum advance payment equal to 50% of the maximum Age Pension. Based on current Age Pension rates, this is around $12,385 per year for singles, while couples combined could receive around $18,670.

A maximum of 2 advances totalling up to the cap amount will be permitted in a year, for those who do not want to take an advance in one instalment.

Date of effect

1 July 2022.

Background

The PLS is a voluntary, reverse mortgage type loan available to assist older Australians who wish to boost their retirement income by unlocking equity in their real estate assets. While the PLS is a type of reverse mortgage, the main difference is that the Government scheme involves a loan made via ongoing fortnightly payments (non-taxable) and currently doesn't allow for a lump sum payment (unlike a reverse mortgage from a commercial provider).

The PLS allows a fortnightly loan of up to 150% of the maximum rate of Age Pension and an interest rate, currently set as 4.5%, is charged. Under the existing PLS, those with a full-rate Age Pension can get an annual income boost worth 50% of a full Age Pension representing around $12,385 per year for singles and around $18,670 for couples. This is on top of receiving a full Age Pension.

The increased flexibility from 1 July 2022 will allow a full-rate age pensioner to access their entire annual PLS amount as a lump sum. This is on top of receiving a full-rate Age Pension.

Those with a part-rate Age Pension will also be able to access a lump sum worth 50% of a full Age Pension. They will continue to be able to use the PLS to top-up their fortnightly pension through the PLS, such that their combined Age Pension plus PLS benefit (both lump sums and income stream) is up to 1.5 times a full-rate Age Pension payment.

PLS and self-funded retirees

Under the existing PLS, self-funded retirees of Age Pension age who do not receive any Age Pension can get an income boost over a year worth 1.5 times a full rate Age Pension payment. This represents around $37,155 per year for singles and around

$56,011 per year for couples.

The increased flexibility from 1 July 2022 will allow a self-funded retiree to get a lump sum payment worth up to 50% of a full rate Age Pension, representing around $12,385 per year for singles and around $18,670 for couples under the PLS each year. This is on top of the other amounts they would receive under the PLS up to the maximum annual amount and means they will be able to bring forward one third of their maximum PLS payments if they choose to do so.

The PLS may have other advantages in the form of potentially lower set up costs and a low interest rate of 4.5%. Of course, the suitability of a loan via the PLS will depend on each individual's circumstances and needs.

Source: Budget Paper No 2 [p 183]; Superannuation Budget fact sheet

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