Federal Budget 2022–23

Business left to shoulder the burden as government steps back

Contents

Overview

The overall structure of the Federal Budget 2022-23 appears to have been designed not to offend any voter in the electorate. To this end, it could be said that the Budget lacks a constructive and meaningful push for greater innovation or efficiency within the business community. However, in its defence, the Budget handed down may be founded on the mantra of not interrupting the current endeavours of businesses to make their way through challenging headwinds.

In an increasingly volatile world, and with an election just around the corner, the 2022-23 Federal Budget offered little to surprise or offend business and other stakeholders. The opening remarks of the Federal Treasurer's budget speech confirmed that its key themes are built around maintaining Australia's strength and resilience whilst we continue to "live in uncertain times".

The government is clearly hoping for the continuation of economic growth, although moderated in recent years in the rebound from the COVID-19 pandemic, continuing to project low unemployment and very rapid controlling of current inflation expectations. This environment, they believe, does not need interference (aside from some temporary measures such as the fuel excise reduction) and in their view, 'leaving well enough alone' appears to be the greatest hope of restoring budgeted revenues without structural policy change.

In practice, this means that many of the proposed Budget measures, whilst helpful for some, are unlikely to provide widespread support for business as the JobKeeper program becomes a distant memory and the capital expenditure incentives of past budgets move into run-off phase over the coming year. But pleasingly, at least, there aren't any new measures that should distract businesses from endeavouring to tackle the labour supply, resourcing, supply chain and cost issues that exist and will continue to lie ahead.

As always, there are opportunities for astute business owners and managers to whom some of the specific measures are directed. Some of the key impacts for businesses and stakeholders across Australia, if Budget measures become law, include:

- Small business training and technology boost incentives, broadly providing a 120% tax deduction for eligible expenditure;
- Important expansion of the Employee Share Scheme rules to encourage talent reward and retention in unlisted companies;
- Expansion and clarification of the patent box measure, providing a concessional company tax rate on eligible income;
- Temporary relief measures in the calculation of PAYG and GST instalments for smaller businesses; and
- Temporary reduction of fuel excise tax by $0.221 per litre.

It is difficult to see that there would be any challenges to the Budget measures in the face of an upcoming election. Furthermore, it is almost inevitable that there will be further policy announcements in the coming weeks from both sides of politics, which will further supplement this Budget.

With this opportunity to influence policy still alive, Pitcher Partners will be advocating on behalf of the middle market for the next government to, among other things, support the growth of skilled labour market participation, focus on meaningful, sensible tax reform, and more investment to further develop value-adding industries for Australia's future.

Budget snapshot

Staying on course (or positioning for an election)

$12B
Reduction in expenditure due to reduction in pandemic response

$5.6B
In handouts to ease cost of living pressures for welfare recipients, while low and middle income earners will get a new $420 tax offset in the new financial year

$3B
Given back to Australians through reduction in fuel excise, worth $30 a week or $700 over 6 months for a 2-car family

$2.8B
Building a skilled workforce over five years from 2021–22, with $5,000 payments to new apprentices and up to $15,000 for employers who take them on

$2B
Regional accelerator program

$6B
For disaster relief and recovery

$17.9B
For priority rail and road projects across Australia

1.7%
Government spend

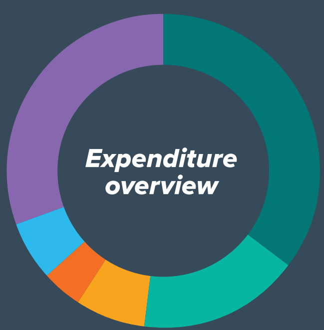
6.0%
Government receipts

Federal Budget analysis 2022–23

The view from here

	2022	2023	2024	2025	2026
Deficit	$79.8B	$78.0B	$56.5B	$47.1B	$43.1B
Gross debt	$906B	$977B	$1,056B	$1,117B	$1,169B
Real GDP	4.25%	3.50%	2.50%	2.50%	2.50%
Unemployment	4.00%	3.75%	3.75%	3.75%	4.00%
CPI	4.25%	3.00%	2.75%	2.75%	2.50%

Social security 35.3%
Health 16.8%
Education 7.1%
General public services 4.2%
Defence 6.1%
Other 30.5%



48.2% Individual income tax
16.5% Company tax
14.5% GST
7.8% Excise and customs
7.2% Non-tax revenue
2.9% Superannuation
3.0% Other

Tax integrity

The Budget provides funding to extend the Tax Avoidance Taskforce for a further two years to 30 June 2025, while expanding their digital data matching capabilities in respect of trust tax returns and payroll data exchanged with states and territories.

Tax Avoidance Taskforce

From 2023–24, the Government will provide the ATO with an additional $652.60 million in funding to extend the operation of the Tax Avoidance Taskforce by two years to 30 June 2025. The additional funding is expected to result in increased tax receipts of $2.1 billion over the forward estimates period.

The Taskforce undertakes compliance activities targeting multinationals, large public and private groups, trust and high wealth individuals. It also scrutinises specialist tax advisors and intermediaries that promote tax avoidance schemes and strategies.

With the ATO recently releasing a suite of public guidance products outlining its compliance approach to several key areas for private groups, including Division 7A and 100A, it is likely that the ATO will increase their scrutiny over these measures as part of this package.

Digitising trust income reporting

Approximately 3% of all trust tax returns are currently lodged via paper forms. The Government will digitise trust and beneficiary income reporting and processing by allowing all trust tax return filers the option to lodge electronically. The measure is intended to reduce processing times of tax returns to bring them in line with those of individual and company tax returns.

The measure is also intended to increase opportunities for pre-filling of trust income for beneficiaries and enhance ATO assurance processes. Accordingly, this measure is expected to increase the ATO's data-matching capabilities for private group trust distributions.

The Government will consult with affected stakeholders, tax practitioners and digital service providers to finalise the design and specifications of the measure, which will commence from 1 July 2024, subject to advice from software providers about their capacity to deliver.

Increased sharing of payroll data with states and territories

The Government will commit to the development of IT infrastructure that will allow the ATO to share single touch payroll (STP) data with State and Territory Revenue Offices on an ongoing basis. Funding will be deployed following considerations of which states and territories are able to make investments in their own systems and administrative processes to pre-fill payroll tax returns.

While the measure should reduce compliance costs for businesses, we expect that the measure will also allow more timely compliance action to be taken by State and Territory Revenue Offices.

Business tax

The Government will provide an extra deduction of 20% for small businesses that spend on improving digital capabilities and upskilling employees. The Government further proposes PAYG instalment changes to assist with cash flow to businesses. The Government has also proposed changes in relation to carbon tax treatment to assist primary producers in smoothing their income.

Skills, training and digital adoption boosts

The Government has focused on incentivising businesses to upskill employees by providing an additional 20% deduction for certain training expenditure incurred by businesses with aggregated turnover less than $50 million. The deduction will apply to expenditure incurred between 7.30 pm (AEDT) on 29 March 2022 and 30 June 2024. With a 25% income tax rate applicable to eligible small businesses from 2023, the additional deduction effectively provides these businesses with a 30% tax saving.

The Government will also continue its focus on adoption of digital technologies by providing an additional 20% deduction for business expenses and depreciating assets supporting digital adoption by businesses with aggregated turnover less than $50 million. The additional deduction will apply to expenditure incurred between 7.30 pm (AEDT) on 29 March 2022 and 30 June 2023. The boost is subject to an annual cap of $100,000 expenditure for the 2022 and 2023 income years, equating to a tax saving of $5,000 per year. This similarly achieves an effective tax saving rate of 30% on eligible expenditure.

The additional deduction for expenditure incurred in the 30 June 2022 income year will be claimable in the 2023 income tax return.

Changes to PAYG instalment system

Small businesses, sole traders and investors will be given temporary tax instalment relief to assist with additional cash flow. The measures include a change in the GDP uplift factor used for PAYG and GST instalments from 10% to 2%, commencing from the 30 September 2022 quarter and throughout the 2023 income year.

The Government will also begin consultation on PAYG modernisation for businesses on an opt-in basis from 1 January 2024. This will involve developing an additional methodology that companies can choose to adopt which will be calculated based on current financial performance, extracted from business accounting software, with some tax adjustments. The purpose of this model would be to better align PAYG instalments with what is likely to be their taxable income and may provide cash flow benefits to taxpayers who regularly and accurately calculate their tax on an ongoing basis.

Concessional tax treatment for sale of carbon credits and biodiversity certificates

From 1 July 2022, the Government will allow proceeds from the sale of Australian Carbon Credit Units (ACCUs) and biodiversity certificates (issued under the Agricultural Biodiversity Stewardship Market scheme) from on-farm activities to be treated as primary production income. This will allow such income to benefit from tax averaging measures and the Farm Management Deposit Scheme available to primary producers which can assist in smoothing their revenue over multiple income years. The Government will also provide a deferral benefit to eligible primary producers by taxing proceeds in the year of sale of ACCUs and biodiversity certificates.

Personal income tax

The Government has announced an increase of $420 in the "low and middle income tax offset" for the 2021-22 income year but no changes to the personal income tax rates.

Low and Middle Income Tax Offset

In a measure designed to ease cost of living pressures, the Government will increase the low and middle income tax offset (LMITO) by $420 for each eligible recipient for the 2021-22 income year. This will increase the maximum LMITO benefit for 2021–22 to $1,500 for individuals and $3,000 for couples. Taxpayers will be able to access the increased LMITO from 1 July 2022 when they lodge their tax returns for the 2021–22 income year.

With the exception of those who do not need the full offset to reduce their tax liability to zero, all LMITO recipients will benefit from the full increase of $420. All other features of the LMITO will remain unchanged. Consistent with the LMITO's current features, taxpayers with incomes of $126,000 or more will not benefit from the additional $420 tax offset.

Importantly, the Government did not announce an extension of the LMITO to the 2022-23 income year and it will therefore cease in full after 2021-22.

Personal tax rates

There have been no changes to the personal income tax rates for the 2021-22 income year or for subsequent years. The proposed changes in tax rates from previous budgets are contained in the following table.

Tax rates, thresholds			
Rate	Tax payable	2022–23 Announced in 2020–21 Budget	2024–25 Announced in 2020–21 Budget
0%	Nil	$0 – $18,200	$0 – $18,200
19%	Nil	$18,201 – $45,000	$18,201 – $45,000
30%	N/A		$45,001 - $200,000
32.5%	$5,092	$45,001 – $120,000	N/A
37%	$29,467	$120,001 – $180,000	N/A
45%	$51,667	$180,001	$200,001

One-off $250 cost of living payment

The Government will make a one-off $250 payment in April 2022 to 6 million eligible pensioners, welfare recipients, veterans and eligible concession card holders. The payment will be tax exempt and will not count as income for the purposes of any Government income support.

Medicare levy low-income thresholds

For the 2021–22 income year, the Medicare levy low income threshold for singles will be increased to $23,365 (up from $23,226). For couples with no children, the family income threshold will be increased to $39,402 (up from $39,167). For each dependent child or student, the family income threshold will increase by $3,619 (up from $3,597). For single seniors and pensioners eligible for the seniors and pensioners tax offset, the Medicare levy low income threshold will be increased to $36,925 (up from $36,705). The family threshold for seniors and pensioners will be increased to $51,401 (up from $51,094).

Superannuation

The Government has broadly left the superannuation system unchanged, with a minor extension to the minimum drawdown percentage to 30 June 2023.

The Government confirmed that it will continue with the 50% minimum pension drawdown reduction for account-based superannuation pensions, extending the measure for a further year to 30 June 2023. This measure is intended to minimise the forced sale of investments to pay pensions, due to the ongoing volatility in investment markets.

The table below details the reduced minimum drawdown requirements for the 2023 income year.

Age of pension beneficiary on 1 July 2022 (or age at start of pension if first year)	Standard minimum drawdown percentage	Reduced minimum drawdown percentage for the 2023 income year
Under age 65	4%	2%
65 – 74	5%	2.5%
75 – 79	6%	3%
80 – 84	7%	3.5%
85 – 89	9%	4.5%
90 – 94	11%	5.5%
Age 95 and over	14%	7%

Any individual with an account-based pension, allocated pension or market-linked pension is eligible to reduce their minimum pension for the 2023 income year by up to 50%. The pension reduction is optional if it suits an individual's circumstances.

Fuel excise relief

In response to growing cost of living pressures, the Government has announced a temporary reduction in fuel excise of 50% equal to 22.1 cents per litre.

Temporary excise reduction

As highlighted in the lead up to the Budget, the Government has announced a temporary 50% reduction in the excise imposed on fuel, bringing the excise from 44.2 to 22.1 cents per litre. Providing a saving to both consumers and businesses this measure will be in place for a period of 6 months commencing on 30 March 2022 and ending on 28 September 2022. For businesses that claim full fuel tax credits, for example off road heavy machinery operators, the change will be irrelevant as they will continue to claim full fuel tax credits albeit at the lower rate.

The current fuel tax credit entitlement for heavy vehicles travelling on a public road is reduced by the road user charge, leaving operators with a net entitlement of 17.8 cents per litre. With the reduction in excise, operators of heavy vehicles used for travelling on public roads will be 4.3 cents per litre better off.

The measure will be of most benefit to light vehicle business operators and private consumers who will receive the full 22.1 cent saving per litre. This excise reduction will also reduce the amount of GST payable by a further 2.21 cents per litre. In this sense the measure is well targeted.

The benefit of this measure is expected to flow through to consumers within a few weeks as petrol stations replenish their stocks.

Excise payment concession

As part of its cash flow support and red tape elimination measures, the Government has announced that manufacturers, importers and distributors in the alcohol and fuel sectors with a turnover of less than $50 million will be able to report their excise and excise equivalent customs duty on a quarterly basis.

At present these entities must report monthly and even weekly, so the change will have a significant cash flow impact on these taxpayers. This measure is due to commence on 1 July 2023.

COVID-19 support

The Government has extended COVID support by treating the cost of rapid antigen tests required for work as tax deductible and exempt from Fringe Benefits Tax ("FBT"). The Government has also again allowed for various additional State support grants to be exempt from income tax.

Deductibility of rapid antigen tests and COVID testing

As expected, the Budget confirmed a February 2022 Government announcement that the costs of taking a rapid antigen test (or other COVID testing) to attend a place of work would be deductible from 1 July 2021. The measure will provide some tax relief to employees required to show a negative rapid antigen test result to attend their workplace, where such costs are paid out-of-pocket.

Where employees are reimbursed for the cost by their employer or where the employer provided the tests, the measure will ensure that employers will not incur a fringe benefits tax associated with providing tests to employees under the otherwise deductible rule.

The measure is set to apply retrospectively from 1 July 2021.

Income tax exemption of State COVID-19 support grants

The Government announced on 13 September 2020 that certain State and Territory COVID-19 support grants to small businesses (with aggregated turnover up to $50 million) would be treated as non-assessable non-exempt for income tax purposes.

The Budget extends the income tax exemption for an additional eight grants and support packages introduced in the 30 June 2022 year by the New South Wales, Queensland and South Australian governments.

Patent box measures

The Government has announced that it will be expanding the patent box measures announced in last year's Budget to additional sectors to drive more investment and encourage Australian companies to commercialise their innovations in Australia.

Expanding the patent box tax concession to Australian agricultural and low emission technology sectors

The Government has announced that it will be expanding the patent box measures to support additional sectors, including the Australian agricultural sector and low emission technology sector.

From 1 July 2023, it is proposed that eligible corporate income will be subject to an effective income tax rate of 17 percent for patents granted or issued after 29 March 2022. Eligible income will be concessionally taxed to the extent that the research and development ("R&D") activities relating to the innovation took place in Australia.

The Government will consult with industry prior to finalising the detailed design of the patent box expansion to the additional sectors.

It is anticipated that the patent box measures will offer a competitive tax rate for profits generated from eligible Australian owned and developed patents, which will ultimately support the commercialisation of innovation and encourage further R&D activities in Australia.

Updated policy specifications for Australian medical and biotechnology innovations

In last year's Budget, the Government announced that it would look to introduce patent box measures where income earned from new medical and biotechnology patents developed in Australia would be taxed at a concessional rate of 17 per cent. These measures are currently before Parliament and are expected to apply to companies for income years commencing on or after 1 July 2022.

In this year's Budget, the Government has announced that it would be expanding the policy specifications relating to the Australian medical and biotechnology sector, by enabling patents granted or issued after 11 May 2021 to be eligible for the regime. Further, the Government has removed certain regulatory barriers around the registration of Australian developed innovations patented overseas.

Whilst the patent box measures have been expanded for the medical and biotechnology sector, it remains that taxpayers can only benefit from this regime to the extent that the R&D activities relating to the development of the patent occurred in Australia.

Employee Share Schemes

The Government seeks to expand access to employee share schemes and encourage further employee participation by reducing regulatory requirements.

The Government has confirmed that it will expand access to employee share schemes for unlisted companies by changing investment thresholds and further reducing red tape to help ensure that employees at all levels can participate in share ownership. The announcement provides that regulatory relief will be afforded to employers that make larger offers in connection with employee share schemes in unlisted companies, where participants invest up to:

- $30,000 per participant per year, accruable for unexercised options for up to 5 years, plus 70% of dividends and cash bonuses; or
- any amount, if it would allow them to immediately take advantage of a planned sale or listing of the company to sell their purchased interests at a profit.

The Government will also remove regulatory requirements for offers to independent contractors where they do not have to pay for interests.

No date of effect is specified in the Budget papers.

Foreign Investment Approval

The Government will amend Australia's foreign investment framework to reduce the regulatory burden faced by foreign investors

Unlisted land rich entities

Foreign investors acquiring securities in unlisted Australian land-rich entities (i.e. entities that hold interests in Australian land with a value of greater than 50% of the value of the entity's gross assets) will no longer be required to obtain approval from the Foreign Investment Review Board ("**FIRB**") where the foreign investor's acquisition results in their holding an interest of less than 10% in that entity. Previously, the threshold for the reduced regulatory burden was an interest of less than 5% and aligns with the thresholds applicable for investments in listed Australian land-rich entities. This amendment is due to commence for acquisitions made on or after 1 April 2022.

This will provide increased access to foreign capital for Australian businesses and Australian landholders.

Acquisition of interests in securities where the proportionate ownership will not increase

Additional approval will no longer be required from FIRB for foreign investments where the investor's percentage interest does not increase due to the additional investment. For example, a person's proportionate share or unit holding will not increase as a result of a capitalisation of a wholly-owned subsidiary (as it remains at 100%). This amendment is due to commence for acquisitions made on or after 1 April 2022.

Making business *personal*

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