FEDERAL BUDGET REPORT
2023-2024

May 2023

TABLE OF CONTENTS

OVERVIEW

The Treasurer, the Honourable Dr Jim Chalmers MP, handed down the 2023-24 Federal Budget at 7:30 pm (AEST) on Tuesday 9 May 2023.

The budget surplus is estimated to be $4.2 billion (0.2% of GDP). The Budget forecasts a deficit of $13.9 billion (0.5% of GDP) in 2023-24 and gross debt as a share of the economy is now expected to peak lower at 36.5% of GDP in 2025-26. Unemployment is expected to remain low – 4.25% in 2023–24 rising to 4.5% in 2024-25.

As expected, the primary focus of the Federal Budget is to alleviate cost of living pressures being felt across Australia. No major structural tax changes have been announced but the Budget does include commitments towards health, support payments and creation of affordable housing.

From a tax perspective, for individuals, no major announcements have been made. Furthermore, no announcements have been made that impact the stage three tax cuts which have already been legislated to commence from 1 July 2024. As part of the legislated tax cuts, the 37% tax rate will be removed and the 32.5% tax rate will be reduced to 30%. Individuals will be taxed at a marginal tax rate of 30% for income earned between $45,000 and $200,000. As a reminder, the low and middle income tax offset no longer applies from 1 July 2022 onwards.

For businesses, the Government announced:

- From 1 July 2023, the instant asset write off will be available to small businesses with an aggregated turnover of less than $10 million on the purchase of eligible assets below $20,000. Currently, under the Temporary Full Expensing measure which will end on 30 June 2023, there are no thresholds and businesses (with an aggregated turnover of less than $5 billion) can claim the full value of eligible depreciating assets.

- The small business energy incentive will be available to businesses with a turnover of less than $50 million which allows an additional 20% deduction on certain expenditure towards electrification and more efficient use of energy.

- Payday Superannuation will commence from 1 July 2026, this means employers will be required to make superannuation payments on the same day that an employee's salary or wages are paid.

- A lodgement penalty amnesty program for small businesses with an aggregated turnover of less than $10 million to encourage them to re-engage with the tax system. The amnesty will remit failure-to-lodge penalties for outstanding tax statements lodged in the period from 1 June 2023 to 31 December 2023 that were originally due during the period from 1 December 2019 to 28 February 2022.

The Government has also announced targeted tax incentives towards housing with increased capital allowance deductions for eligible build-to-rent projects and concessional tax treatment for non-residents on eligible fund payments from managed investment trusts on income from new constructed residential build-to-rent projects.

Our analysis of the budget papers and summarised in the following report.

INDIVIDUALS

INDIVIDUAL TAX RATES STATUS

Marginal tax rates for individuals remain unchanged for the 2023 - 24 income year.

The Government has made no further announcement in relation to the stage three tax cuts which are meant to commence from 1 July 2024. However, the financial impact of the stage three tax cuts have been factored into the budget's forward estimates, with a forecast cost to the budget bottom line of $69 billion.

As part of stage three, the 37% tax rate will be removed, and the 32.5% tax rate will be reduced to 30%. Individuals will be taxed at a marginal tax rate of 30% for income earned between $45,000 and $200,000.

MORE INFORMATION

The Treasurer has continuously stated that he will not be making any changes to the legislated tax cuts in this Budget. When questioned about the tax cuts, in his interview at Parliament House on 9 May 2023, he stated "We'll be helping the vulnerable this year, in this Budget, and that's been our focus. And the tax cuts that you raise, they don't come in for more than a year now. They haven't been a focus of our discussions for this Budget. But we can help the most vulnerable people in our community and in our country this year, at the same time as we lay the foundations for a stronger, more sustainable economy into the future."

The following table summarises the marginal tax rates for the relevant income bands (excluding Medicare Levy):

Rate	Taxable income up to 30 June 2024	Taxable income from 1 July 2024
0%	$0 - $18,200	$0 - $18,200
19%	$18,201 - $45,000	$18,201 - $45,000
30%	N/A	$45,001 - $200,000
32.5%	$45,001 - $120,000	N/A
37%	$120,001 - $180,000	N/A
45%	$180,001 and over	$200,001 and over

EXTENDING THE PERSONAL INCOME TAX COMPLIANCE PROGRAM

The Government will extend the compliance program for a further two years from 1 July 2025 and the scope of the program will be expanded from 1 July 2023. Under the expanded scope, the ATO will seek to address emerging risk areas such as deductions related to short term rental properties like holiday homes, to ensure they are genuinely available for rent.

MEDICARE LEVY LOW-INCOME THRESHOLDS FOR 2022–2023

The Government will increase the Medicare levy low-income thresholds for singles, families and seniors and pensioners from 1 July 2022. The increase in threshold takes into account recent CPI outcomes to ensure low income earning individuals are exempt from paying Medicare levy. The thresholds will be increased as follows:

Category	Previous Threshold	New Threshold
Singles	$23,365	$24,276
Families	$39,402	$40,939
Single Seniors/Pensioners	$36,925	$38,365
Senior/Pensioner Families	$51,401	$53,406
Dependent Child/Student (each)	$3,619	$3,760

EXEMPTING LUMP SUM PAYMENTS IN ARREARS FROM THE MEDICARE LEVY

The Government will introduce legislation to exempt eligible lump sum payments in arrears from Medicare levy from 1 July 2024. Lump sum payments can be paid as compensation for payments in arrears for underpaid wages and the purpose of this is to ensure low income earning individuals do not pay higher amounts of Medicare levy in relation these payments.

In order to access the exemption, taxpayers must be eligible for a reduction in the Medicare levy in the two most recent years to which the lump sum accrues. Taxpayers must also satisfy the existing eligibility requirements of the existing lump sum payment in arrears tax offset, including that a lump sum accounts for at least 10% of the taxpayer's income in the year of receipt.

BUSINESS

PAYDAY SUPERANNUATION

From 1 July 2026, employers will be required to pay their employees' superannuation at the same time they pay their salary and wages. Furthermore, the Australian Taxation Office (ATO) will be provided with additional funding to help it detect unpaid superannuation payments and the Government will set enhanced targets for the ATO for the recovery of payments.

OUR THOUGHTS:

The relief for some businesses is that this measure does not commence until 1 July 2026 and the delayed start date will provide employers, superannuation funds, payroll software providers and other parts of the superannuation system with sufficient time to prepare for the change. Although most businesses in Australia do the right thing, many individuals are caught out by disreputable employers not meeting their employer obligations.

On one hand, this may result in a cash flow burden for those businesses who pay superannuation on a quarterly basis. On the other hand, it reduces the risks of businesses failing to meet their superannuation guarantee obligations on time which can result in additional interest charges, loss of tax deductions and director penalty notices being issued to recover unpaid debts.

GST COMPLIANCE PROGRAM

This program has been extended by four years and the ATO will receive additional funding to ensure businesses are correctly meeting their GST obligations. The funding will also enable the ATO to develop more sophisticated analytical tools to combat emerging risks to the GST system.

OUTGOING TAX MEASURES – LOSS CARRY BACK AND TEMPORARY FULL EXPENSING

The Temporary Full Expensing (TFE) regime will end in the 2023 financial year. The full cost of assets installed and ready for use may be deducted up to 30 June 2023 under the TFE regime provided the eligibility criteria are met.

Similarly, the loss carry back measure allowing businesses to offset tax losses against tax paid in prior years and receive a refund will end in the 2023 financial year.

These matters will need to be front of mind for taxpayers as part of tax planning conducted for the 30 June 2023 year.

BUSINESS: SMALL-MEDIUM

SMALL BUSINESS DEPRECIATION - INSTANT ASSET WRITE OFF

Small businesses with a turnover of less than $10 million which use the simplified depreciation provisions will have access to the instant asset write off (IAWO) for eligible assets costing less than $20,000. Assets purchased over $20,000 will need to be allocated to the simplified depreciation pool and depreciation can be claimed at 15% in the year purchased and then at 30% in following years. This measure applies on a temporary basis from 1 July 2023 to 30 June 2024.

OUR THOUGHTS:

Over the last few years, businesses have been able to access very generous depreciation incentives which allow them to claim the full cost of depreciating assets as an upfront tax deduction, irrespective of any cost thresholds under the Temporary Full Expensing (TFE) provisions. Essentially, with the TFE provisions ending on 30 June 2023, the Government has re-instated the IAWO threshold which was in place for small businesses between 2016 and 2019.

Businesses who have planned capital expenditure are incentivised to bring forward purchases to the 2022-23 income year to be eligible to claim the full cost under the TFE provisions, however, it is also necessary for the assets to be ready to use or installed ready to use by 30 June 2023.

SMALL BUSINESS ENERGY INCENTIVE

The Small Business Energy Incentive will be made available to small and medium sized businesses with an annual turnover of less than $50 million. The incentive will provide an additional 20% deduction on the cost of eligible depreciating assets that support electrification and more efficient use of energy.

Examples of this include, investments incurred by businesses in electrifying their heating and cooling systems, upgrading to more efficient fridges and induction cooktops, and installing batteries and heat pumps.

The amount eligible for the extra 20% deduction is capped at $100,000, with the maximum bonus tax deduction being $20,000 per business. Eligible assets or upgrades will need to be first used or installed ready for use between 1 July 2023 and 30 June 2024.

SMALL BUSINESS AMNESTY – FAILURE TO LODGE PENALTIES

Small businesses with an aggregated turnover of less than $10 million who are not up to date with their tax lodgments can access the lodgment penalty amnesty program. In order to re-engage with small business taxpayers, the failure to lodge penalties will be remitted for outstanding tax statements if lodged between 1 June 2023 - 31 December 2023 and those statements were due during 1 December 2019 – 28 February 2022.

SMALL & MEDIUM BUSINESSES – PAYG & GST INSTALMENT UPLIFT FACTOR

The Government will make amendments to set the GDP adjustment factor for pay as you go (PAYG) and GST instalments at 6% for the 2023–24 income year (previously 12%) under the statutory formula. This will apply to instalments relating to the 2023-24 income year.

For GST instalments, the uplift factor will apply to businesses with an aggregated turnover of less than $10 million. For PAYG instalments, the uplift factor will apply to businesses with an aggregated turnover of less than $50 million.

REDUCING COMPLIANCE COSTS FOR SMALL BUSINESSES

The ATO will receive funding to lower tax related administrative burdens for small businesses. This includes funding to trial an expansion of the ATO independent review process to small businesses with an aggregated turnover of between $10 million and $50 million.

From 1 July 2024, small businesses will be able to authorise their tax agent to lodge multiple Single Touch Payroll (STP) forms on their behalf and the ATO will reduce the use of cheques when issuing refunds. From 1 July 2025, small businesses will be permitted up to four years to amend their income tax returns.

OUR THOUGHTS:

Currently, small businesses generally have a two-year amendment period from the date of assessment to rectify mistakes in their tax returns. Similarly, the ATO also has only two years to conduct their review/audit activities, or they are outside the time periods to amend the assessment (unless there is tax evasion/avoidance). The Budget Papers are silent on whether the time limit in which the ATO may amend small business tax returns will also be extended to four years.

Amendments to the tax administration rules were made following a review of the tax system by Treasury in 2004. This was to create more certainty for small businesses around their tax exposures as a result of a self-assessment tax system. It would be a disappointing outcome for small business if this measure announced in this budget gives the ATO more time to conduct their review activities.

BUSINESS: MULTINATIONAL

MULTINATIONALS – GLOBAL MINIMUM TAX

The Government will implement aspects of Pillar Two of the OECD/G20 Two-Pillar solution which aims to address the tax challenges arising from global businesses and the digitisation of the economy. Under the proposed changes, the global minimum tax and domestic minimum tax will be based on the OECD Global Anti-Base Erosion Model Rules. These are designed to ensure multinationals pay a minimum level of tax on income being generated in each jurisdiction they operate within. The global minimum tax rate has been set at 15% and by implementing these changes, Australia will be able to apply a 'top-up' tax on an Australian parent or subsidiary company where the group's income is taxed below 15% overseas.

A complementary domestic minimum tax will also provide Australia first claim on top-up tax for any low taxed domestic income (due to a company's effective Australian tax rate falling below 15%).

These changes only impact large multinationals with an annual global revenue of EUR 750 million (currently approximately AUD$1.2 billion).

Using a global revenue threshold denominated in a foreign currency is perverse in the context of other tax reporting rules applicable to large multinationals which use an Australian Dollar denominated threshold (i.e. the Significant Global Entity (SGE) test which applies a global revenue threshold of AUS$1 billion).

Using a foreign denomination as the threshold amount creates uncertainty, particularly where multinationals' significant business operations are outside of Europe.

SUPERANNUATION

ADDITIONAL 15% TAX ON MEMBER BALANCES IN EXCESS OF $3 MILLION

In the lead up to the Federal Budget, the Government announced it would reduce the superannuation tax concessions available to individuals whose total superannuation balances exceed $3 million. Earnings corresponding to the proportion of an individual's superannuation balance that is greater than $3 million will be taxed at 30% (increased from 15%). Earnings relating to assets below the $3 million threshold will continue to be taxed at 15% or 0% if held in a retirement pension account.

These changes will apply from 1 July 2025.

OUR THOUGHTS:

This announcement has already been met with mixed responses but overall, it is currently anticipated to impact less than 80,000 people in Australia. Following the Government's announcement in March, Treasury released a consultation paper around the proposed model and it is concerning that at this stage:

- the $3 million threshold will not be indexed in line with CPI (meaning the measure will increasingly apply to more individuals as their superannuation balances grow in line with inflation), and
- the Government intends on levying taxes on unrealised gains attributable to member balances exceeding the $3 million threshold. If a fund has negative earnings as a result of unrealised capital losses, the losses can only be carried forward to offset future positive earnings.

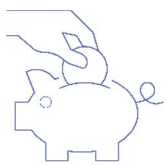
Members should review available options, considering liquidity and ability to meet tax liabilities from unrealised gains under the proposed new regime.

Generally, taxpayers do not pay income tax on unrealised gains.

AMEND THE NON-ARM'S LENGTH INCOME PROVISIONS

Amendments will be made to the Non-Arms' Length Initiative (NALI) provisions which apply to expenditure incurred by superannuation funds by:

- Limiting income of self-managed superannuation funds and small Australian Prudential Regulation Authority (APRA) regulated funds that are taxable as NALI to twice the level of a general expense. Additionally, fund income that is taxable as NALI will exclude contributions.
- Exempting large APRA regulated funds from the NALI provisions for both general and specific expenses of the fund.
- Exempting expenditure that occurred prior to the 2018-19 income year.



OUTGOING MEASURES – REDUCTIONS IN MINIMUM DRAWDOWNS

No further extensions have been announced in relation to the temporary 50% reduction in minimum pension drawdowns which applied from 2020-2023. Minimum pension drawdowns are returning to the following:

Age	Minimum pension payment 2023-2024	Minimum pension payment 2019-2020 to 2022-2023
Under 65	4%	2%
65 - 74	5%	2.5%
75 - 79	6%	3.0%
80 - 84	7%	3.5%
85 - 89	9%	4.5%
90 - 94	11%	5.5%
95 +	14%	7%

INDUSTRY SPECIFIC

LNG INDUSTRY: CHANGES TO PETROLEUM RESOURCE RENT TAX

The Government will act on Treasury's key recommendation to achieve a fairer return from offshore LNG projects by introducing a cap on the use of deductions from 1 July 2023.

The change will limit the proportion of Petroleum Resource Rent Tax (PRRT) assessable income that can be offset by deductions to 90% and will bring forward PRRT revenue from LNG projects. This will ensure a greater return to taxpayers from the offshore LNG industry, while limiting impacts on investment incentives and risks to future supply.

From 1 July 2024, the Government will modernise the PRRT for emerging developments in LNG project structures to better reflect the contributions and risks of the notional entities that comprise the LNG value chain, align the regulations with current transfer pricing practices and provide appropriate integrity rules for the regime.

MINING, OIL AND GAS: CLARIFYING THE TAX TREATMENT OF 'EXPLORATION' AND 'MINING, QUARRYING AND PROSPECTING RIGHTS'

The Government will amend the Petroleum Resource Rent Tax (PRRT) legislation to clarify that 'exploration for petroleum' is limited to the 'discovery and identification of the existence, extent and nature of the petroleum resource' and does not extend to 'activities and feasibility studies directed at evaluating whether the resource is commercially recoverable'. The amendments will apply to all expenditure incurred from 21 August 2013.

The income tax law will also be amended to clarify that mining, quarrying and prospecting rights (MQPRs) cannot be depreciated for income tax purposes until they are used (not merely held) and will limit the circumstances in which the issue of new rights over areas covered by existing rights lead to tax adjustments. These amendments will apply in respect of all MQPRs acquired or started to be used after the date of announcement (7:30 PM (AEST) on Tuesday 9 May 2023 (Budget night)).

This announcement will see a reversion back to the same issues that existed under the former provisions, that allowed an upfront tax deduction for the cost of MQPRs that were "first used" for exploration. In that context, the meaning of what "use", was the subject of substantial debate between the natural resources industry bodies, tax advisors and the ATO. The flow on impact to other income tax regimes, such as tax consolidation, will need to be carefully considered as part of the consultation process on the draft law.

INSURANCE: COMPLIANCE

The Government will introduce legislation to amend the tax law to minimise the regulatory burden facing the general insurance industry. The introduction of the new accounting standard, AASB17 Insurance Contracts, by the Australian Accounting Standards Board, has meant that the tax law is no longer aligned with accounting standards and this change will allow general insurers to continue audited financial statements as the basis for their tax returns. This measure will apply from 1 January 2023.

OTHER

HOUSING: BUILD TO RENT & INCREASED INCENTIVES

With the intention of increasing the supply of housing, the Government has announced the following incentives for new “build to rent” projects:

- Increasing the capital works deduction rate from 2.5% p.a. to 4% p.a. for eligible new build-to-rent projects where construction commences after 9 May 2023.
- Reducing the withholding tax rate for eligible fund payments from managed investment trusts to foreign residents on income from newly constructed residential build-to-rent properties after 1 July 2024 from 30% to 15% (subject to further consultation on eligibility criteria).

This measure will apply to build-to-rent projects consisting of 50 or more apartments or dwellings made available for rent to the general public. The dwellings must be retained under single ownership for at least 10 years before being able to be sold and landlords must offer a lease term of at least 3 years for each dwelling.

OUR THOUGHTS:

Given the state of the housing market in Australia, this is a welcome announcement. By providing foreign residents concessional tax treatment on income generated from these projects through managed investment trusts, it may result in more foreign investments into the Australian residential housing market.

In addition to these proposed concessions, certain states already have land tax and/or transfer (stamp) duty concessions in place for eligible build to rent projects. Exemptions may also be available to foreign investors in relation to land tax surcharges and foreign acquirer transfer (stamp) duty.

The strict lease term and ownership requirements may pose a problem.

It is also disappointing that the government chose not to consider another major disincentive that applies to build to rent projects. This being the inability for developers to claim GST input tax credits in relation to the construction cost of the project.

TAX AVOIDANCE: EXPANDING THE SCOPE OF PART IVA

Part IVA is the general anti-avoidance provision contained within Australia's income tax legislation. The Government has announced that it will expand the scope of Part IVA and improve the integrity of the anti-avoidance provisions to ensure they can apply to schemes that:

- Reduce tax paid in Australia by accessing a lower withholding tax rate on income paid to foreign residents.
- Achieve an Australian income tax benefit, even where the dominant purpose was to reduce foreign income tax.

This measure is proposed to apply from 1 July 2024 regardless of whether the scheme was entered into before that date.

OUR THOUGHTS:

These proposed amendments to the general anti-avoidance provisions follow on from other amendments in 2013 and recent successes by the Commissioner on the application of those recent amendments. These developments have appeared to sharpen the Commissioner's sword in being able to apply Part IVA. As always, the devil will be in the detail of the draft legislation with respect to how far reaching the further amendments announced in the Budget can extend.

ELECTRIC VEHICLES: FBT AMENDMENTS

Businesses which provide eligible electric vehicles to their employees are not subject to Fringe Benefits Tax (FBT) provided the eligibility criteria are met. Plug-in hybrids may be considered eligible vehicles for the purpose of the exemption for three FBT years. For any new arrangements entered into after 1 April 2025, the exemption will no longer apply to these vehicles.

The purpose of these amendments is to ensure arrangements entered into for plug-in hybrid electric cars between 1 July 2022 and 31 March 2025 remain eligible for the FBT exemption post 1 April 2025 (i.e. employee or employer are not worse off).

After 1 April 2025, new arrangements involving plug-in hybrids will no longer be eligible for the FBT exemption.

PREVIOUSLY ANNOUNCED CHANGES: CHANGE IN APPLICATION DATES

- Amend the start date of the 2016–17 MYEFO measure: Tax integrity – franked distributions funded by capital raisings from 19 December 2016 to 15 September 2022. These integrity rules were put in place to prevent companies from paying out franked distributions to their shareholders following a capital raising.
- Amend the start date for streamlining excise administration for fuel and alcohol package from 1 July 2023 to 1 July 2024.

PREVIOUSLY ANNOUNCED CHANGES: PATENT BOX ABANDONED

The Government has decided not to proceed with 3 patent box measures that were announced in the 2021–22 and 2022–23 March Budgets. The objective of these measures was to provide tax incentives for revenue generated from patents related to medical, biotechnology and agricultural sector innovation within Australia.

CLEAN BUILDING MANAGED INVESTMENT TRUST WITHHOLDING TAX CONCESSIONS

The Government will extend the clean building managed investment trust (MIT) withholding tax concession to data centres and warehouses. This measure will extend eligibility for the concession to data centres and warehouses that meet the relevant energy efficiency standard, where construction commences after 7:30 PM (AEST) on Tuesday 9 May 2023 (Budget night). This measure will apply from 1 July 2025.

CONTACT US

Moore Australia
ma@moore-australia.com.au

MOORE

www.moore-australia.com.au