2022/23 October Federal Budget

On 25 October 2022, Treasurer Jim Chalmers handed down an updated 2022/23 Federal Budget, the first for the Albanese Labor Government. Here are the highlights of the tax and accounting measures announced.

1. Supporting Small Business Owners

The Government will provide $15.1 million over two calendar years from 1 January 2023 until 31 December 2024 to extend the Small Business Debt Helpline and the NewAccess for Small Business Owners programs to support the financial and mental wellbeing of small business owners.

2. Super downsizer contributions eligibility age reduction to 55 confirmed

The Government confirmed its election commitment that the minimum eligibility age for making superannuation downsizer contributions will be lowered to age 55 (from age 60). This measure will have effect from the start of the first quarter after assent to the enabling legislation - the Treasury Laws Amendment (2022 Measures No 2) Bill 2022 (introduced in the House of Reps on 3 August 2022).

The proposed reduction in the eligibility age will allow individuals aged 55 or over to make an additional **non-concessional contribution of up to $300,000 from the proceeds of selling their main residence** outside of the existing contribution caps. Either the individual or their spouse must have owned the home for 10 years.

As under the current rules, the maximum downsizer contribution is $300,000 per contributor (i.e., $600,000 for a couple), although the entire contribution must come from the capital proceeds of the sale price. A downsizer contribution must also be made within 90 days after the home changes ownership (generally the date of settlement).

3. Assets test exemption for 2 years; deeming rates frozen

The Government also confirmed its election commitments that seek to assist pensioners looking to downsize their homes, by:

- extending the social security assets test exemption for principal home sale proceeds from 12 months to 24 months;

- changing the income test to apply only the lower deeming rate (0.25%) to principal home sale proceeds when calculating deemed income for 24 months after the sale of the principal home.

These measures are contained in the Social Services and Other Legislation Amendment (Incentivising Pensioners to Downsize) Bill 2022 (introduced in the House of Reps on 7 September 2022). The Bill will commence on 1 January 2023 (or 1 month after the day the Bill receives the assent).

4. Low-income tax offsets - LMITO not extended to 2022-23

The 2022-23 October Budget did not announce any extension of the low- and middle-income tax offset (LMITO) to the 2022-23 income year. The LMITO has now ceased and been fully replaced by the low-income tax offset (LITO).

The March 2022-23 Budget had increased the LMITO by $420 for the 2021-22 income year so that eligible individuals (with taxable incomes below $126,000) received a maximum LMITO up to $1,500 for 2021-22 (instead of $1,080).

With no extension of the LMITO announced in the October Budget, 2021-22 was the last income year for which the offset was available. As a result, low-to-middle income earners may see their tax refunds from July 2023 reduced by between $675 and $1,500 (for incomes up to $90,000 but phasing out up to $126,000), all other things being equal.

5. Regional First Home Buyers Guarantee Scheme; Housing Australia Future Fund; other housing measures

The Government has announced that it will establish the "Regional First Home Buyers Guarantee". Its aim will be to encourage home ownership in regional locations.

It will apply to eligible citizens and permanent residents who have lived in a regional location for more than 12 months to purchase their first home in that location with a minimum 5% deposit. It aims to reach 10,000 places per year to 30 June 2026. It will fund this by redirecting funding from the Regional Home Guarantee component of the 2022-23 March Budget measure titled Affordable Housing and Home Ownership.

In other measures, the Government will invest $10 billion in the newly created "Housing Australia Future Fund", to be managed by the Future Fund Management Agency. Its aim will be to generate returns to fund the delivery of 30,000 social and affordable homes over 5 years and allocate $330 million for acute housing needs.

The Government will also "broaden the remit" of the National Housing Infrastructure Facility to directly support new social and affordable housing in addition to financing critical housing infrastructure.

6. Digital Currency – Clarifying that digital currencies are not taxed as foreign currency

The Government will introduce legislation to clarify that digital currencies (such as Bitcoin) continue to be excluded from the Australian income tax treatment of foreign currency.

This maintains the current tax treatment of digital currencies, including the capital gains tax treatment where they are held as an investment. This measure removes uncertainty following the decision of the Government of El Salvador to adopt Bitcoin as legal tender and will be backdated to income years that include 1 July 2021.

The exclusion does not apply to digital currencies issued by, or under the authority of, a government agency, which continue to be taxed as foreign currency.

7. Depreciation – Reverse the self-assessment of the effective life of intangible assets

The Government will not proceed with the measure to allow taxpayers to self-assess the effective life of intangible depreciating assets, which was announced in the 2021/22 Budget.

The previous Government announced it would allow taxpayers to self-assess the tax effective lives of eligible intangible depreciating assets, such as patents, registered designs, copyrights and inhouse software. This measure was proposed to apply to assets acquired from 1 July 2023.

Reversing this decision will maintain the status quo (i.e., effective lives of intangible depreciating assets will continue to be set by statute).

8. Increase in Commonwealth penalty unit (24% increase)

The Government will increase the amount of the Commonwealth penalty unit from $222 to $275, from 1 January 2023. The increase will apply to offences committed after the relevant legislative amendment comes into force.

Interestingly, the amount will continue to be indexed every 3 years in line with the CPI as per the pre-existing schedule, with the next indexation occurring on 1 July 2023. Presumably the next CPI increase will be based on the mandated amount (which arguably means it is not strictly a CPI-related increase).

This means that there could be 2 increases to the value of a penalty unit in 2023.

9. FBT – Electric cars

From 1 July 2022, the measure will exempt battery, hydrogen fuel cell and plug-in hybrid electric cars from fringe benefits tax and import tariffs if they have a first retail price below the luxury car tax threshold for fuel-efficient cars. The car must not have been held or used before 1 July 2022.

Employers will need to include exempt electric car fringe benefits in an employee's reportable fringe benefits amount.

10. Energy Efficiency Grants for small and medium sized enterprises

The Government will provide funding to support small to medium enterprises to fund energy efficient equipment upgrades. The funding will support studies, planning, equipment, and facility upgrade projects that will improve energy efficiency, reduce emissions, or improve the management of power demand.

11. Boosting Paid Parental Leave

The Government has announced it will introduce reforms from 1 July 2023 to make the Paid Parental Leave Scheme flexible for families so that either parent is able to claim the payment and both birth parents and non-birth parents are allowed to receive the payment if they meet the eligibility criteria.

Parents will also be able to claim weeks of the payment concurrently so they can take leave at the same time.

From 1 July 2024, the Government will start expanding the scheme by two additional weeks a year until it reaches a full 26 weeks from 1 July 2026.

Both parents will be able to share the leave entitlement, with a proportion maintained on a ‘use it or lose it’ basis, to encourage and facilitate both parents to access the scheme and to share the caring responsibilities more equally. Sole parents will be able to access the full 26 weeks.

12. Extending ATO Compliance Programs

As appears to be standard practice in modern Budgets, the Government will increase funding for the ATO in the following areas. The moral for taxpayers and their advisors is that the ATO will be getting better and better at detecting variances which will require explanation. The Government has announced it will extend the following ATO compliance programs:

(a) Personal Income Taxation Compliance Program

The Government will provide $80.3 million to the ATO to extend the Personal Income Taxation Compliance Program for 2 years from 1 July 2023. This will focus on **key areas of non-compliance, including overclaiming of deductions and incorrect reporting of income** (which was the subject of a recent key address by the Second Commissioner). The funding will enable the ATO to modernise its guidance products, engage earlier with taxpayers and tax agents and target its compliance activity.

This measure is estimated to increase receipts by $674.4 million and increase payments by $80.3 million over the 4 years from 2022-23.

(b) Shadow Economy Program (Cash Economy)

The Government will extend the existing ATO Shadow Economy Program for a further 3 years from 1 July 2023.

This measure is estimated to increase receipts by $2.1 billion over the 4 years from 2022-23. This includes an increase in GST payments to the States and Territories of $442.3 million. The Papers indicate an amount of funding of some $685 million over the 3 years, in which case receipts of some $2.1 billion seem a good return.

(c) Tax Avoidance Taskforce

The Government has boosted funding for the ATO Tax Avoidance Taskforce by around $200 million per year over 4 years from 1 July 2022, in addition to extending this Taskforce for a further year from 1 July 2025. This measure is estimated to increase receipts by $2.8 billion and increase payments by $1.1 billion over the 4 years from 2022-23.

The boosting and extension of the Tax Avoidance Taskforce will support the ATO to pursue new priority areas of observed business tax risks, complementing the ongoing focus on multinational enterprises and large public and private businesses.

13. Biosecurity

The budget includes $134 million to improve Australia's biosecurity, with $11.7 million earmarked for detector dogs that can sniff out biosecurity threats coming into the country via mail, cargo and air.

$10.2 billion in funding programs to regional Australia have also been cut.

14. Providing certainty for unlegislated taxation and superannuation measures

The Government has announced it will not proceed with certain legacy tax and super measures that were announced but not legislated by the previous Government, including the following:

1. The 2018/19 Budget measure that proposed changing the annual audit requirement for certain self-managed superannuation funds ('SMSFs'). The previous Government announced it would change the annual audit requirement to a three-yearly requirement for SMSFs with a history of good record-keeping and compliance.

2. The 2018/19 Budget measure that proposed introducing a limit of $10,000 for cash payments made to businesses for goods and services. The previous Government announced that it would require transactions over a threshold to be made through an electronic payment system or by cheque.

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

1. The 2019/20 MYEFO measure that proposed introducing a sharing economy reporting regime for transactions relating to the supply of ride sourcing and short-term accommodation from 1 July 2022 will be deferred to 1 July 2023. All other reportable transactions (including asset sharing, food delivery and tasking-based services) will be deferred from 1 July 2023 to 1 July 2024.

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

The previous Government announced that it would relax residency requirements for SMSFs by extending the 'central control and management test' safe harbour from two years to five years and removing the 'active member test'. This measure is intended to allow SMSF members to continue to contribute to their superannuation fund whilst temporarily overseas.

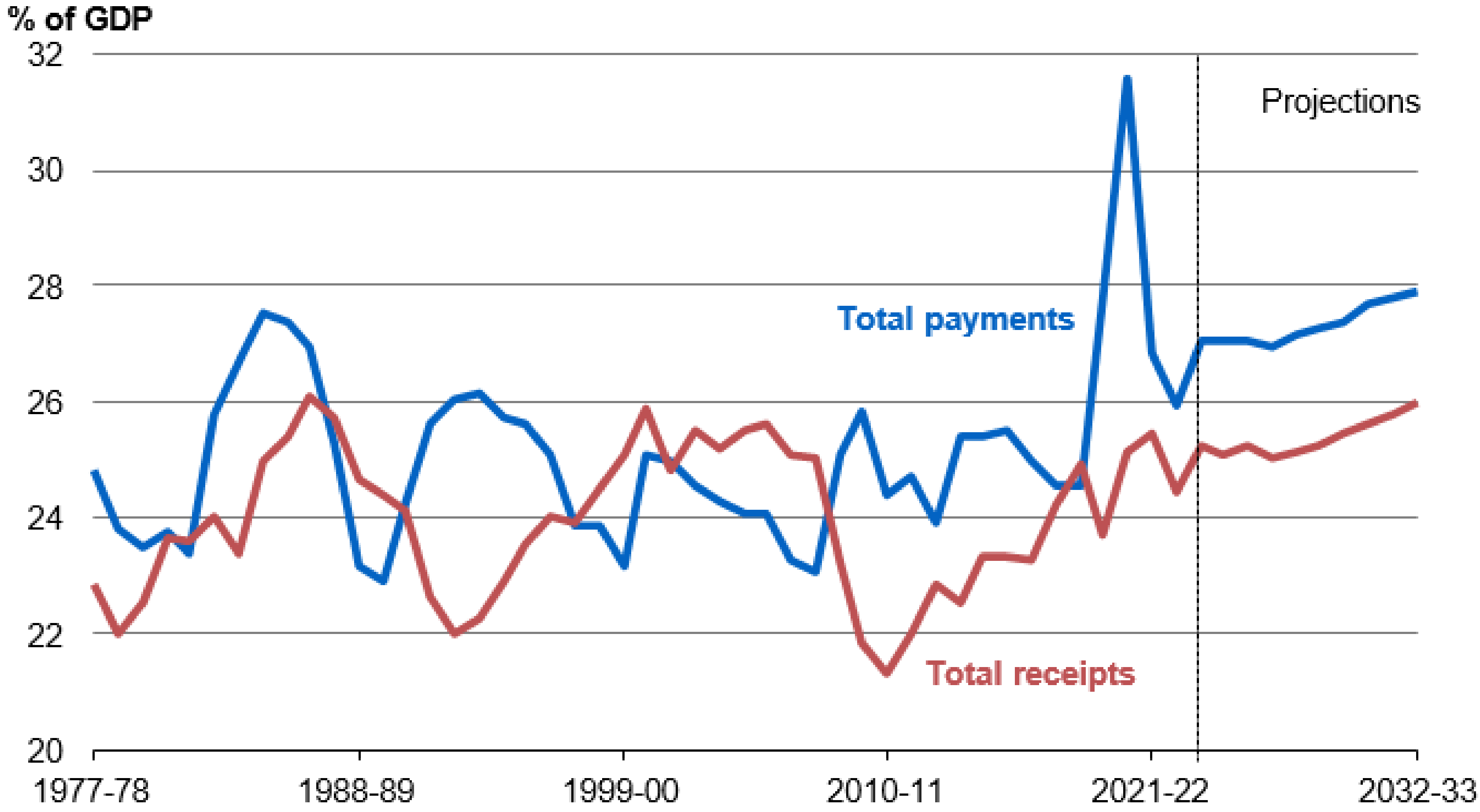
15. Estimate of Large Measured Tax Expenditure

Below is a table of the estimated cost to tax revenue of concessions. These are the potential targets when Government is looking to boost income.

Estimates of large measured tax expenditures

Tax expenditures		Estimate $m			
		2022–23	2023–24	2024–25	2025–26
Large tax expenditures					
E8	Main residence exemption – discount component	33,500	35,000	34,500	35,500
E7	Main residence exemption	29,000	30,000	29,500	31,000
C4	Concessional taxation of superannuation entity earnings	26,350	20,000	19,900	21,050
C2	Concessional taxation of employer superannuation contributions	21,800	23,400	21,450	22,250
E15	Discount for individuals and trusts	11,730	12,270	12,870	12,620
B67	Accelerated depreciation for business entities	11,000	5,200	-7,400	-8,100
H26	Food	8,700	9,100	9,400	9,800
H14	Education	5,450	5,700	5,950	6,200
A25	Exemption for National Disability Insurance Scheme amounts	5,270	6,820	7,340	8,020
H17	Health – medical and health services	5,200	5,500	5,800	6,100
B83	Simplified depreciation rules	4,700	1,700	-5,000	-6,200
H2	Financial supplies – input taxed treatment	3,550	3,750	3,900	4,100
A26	Exemption of Child Care Assistance payments	2,700	2,900	2,900	3,100
B24	Temporary loss carry-back for certain incorporated entities	2,660	2,570	-880	-680
B12	Exemption from interest withholding tax on certain securities	2,410	2,410	2,410	2,410
D15	Exemption for public benevolent institutions (excluding hospitals)	2,300	2,400	2,300	2,400
A23	Concessional taxation of non-superannuation termination benefits	2,250	2,200	1,950	1,900
A19	Medicare levy exemption for residents with taxable income below the low-income thresholds	2,050	2,050	2,050	2,050
B57	Lower company tax rate	2,000	2,500	3,200	3,100
D11	Exemption for public and not-for-profit hospitals and public ambulance services	2,000	2,000	1,900	2,000
H5	Child care services	1,880	1,980	2,120	2,270
C6	Deductibility of life and total and permanent disability insurance premiums provided inside of superannuation	1,850	1,970	1,950	2,050
A38	Exemption of Family Tax Benefit payments	1,840	1,880	1,770	1,790
B2	Local government bodies income tax exemption	1,680	1,690	1,690	1,700
A55	Philanthropy – deduction for gifts to deductible gift recipients	1,645	1,760	1,830	1,790
A17	Exemption of the Private Health Insurance Rebate	1,560	1,640	1,690	1,620
H18	Health – residential care, community care and other care services	1,500	1,590	1,680	1,770
C3	Concessional taxation of personal superannuation contributions	1,350	1,400	1,500	1,400
C1	Concessional taxation of capital gains for superannuation funds	1,200	1,150	1,350	1,550
B78	Capital works expenditure deduction	1,200	1,210	1,210	1,130
A37	Exemption of certain income support benefits, pensions or allowances	1,200	1,250	1,200	1,210
B6	Reduced withholding tax under international tax treaties	1,170	1,350	1,550	1,800
H6	Water, sewerage and drainage	1,150	1,180	1,220	1,250
F6	Concessional rate of excise levied on aviation gasoline and aviation turbine fuel	1,020	1,070	1,150	1,180
F10	Higher rate of excise levied on cigarettes not exceeding 0.8 grams of tobacco	-1,445	-1,485	-1,525	-1,570
F21	Customs duty	-1,850	-1,080	-1,120	-1,160

Payments and receipts



Source: Treasury.