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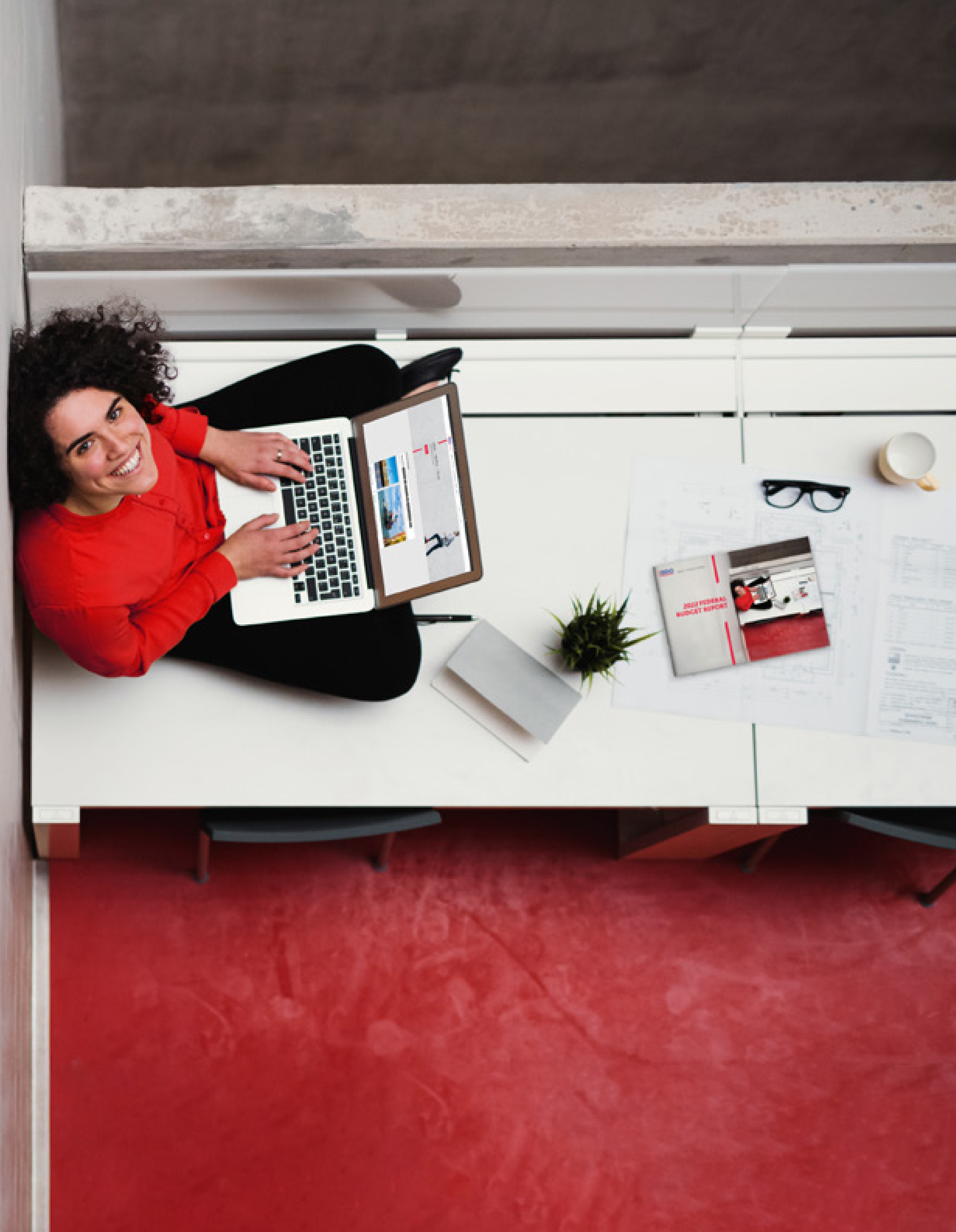
2022 FEDERAL BUDGET REPORT



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INTRODUCTION

Amid the recent natural disasters, new waves of COVID-19 infections, ongoing labour market challenges, supply-chain constraints, and potential for rising inflation, it is quite remarkable that many Australian businesses have continued to maintain their resilience and optimism. It is this positive outlook that needs to be highlighted and celebrated as we forge ahead towards a more sustainable future.

So, as Josh Frydenberg delivered his fourth (and possibly last) Federal Budget, the focus is clearly more on the short-term cost of living relief, with the Federal Election just around the corner. Longer-term measures for a sustainable future did not feature strongly and, moving forward, a budget with a significant deficit is not sustainable.

> *"Over the last three years, Australians have been tested. This budget is looking to the future."*
> **JOSH FRYDENBERG**

While there is a focus on 'bread for the masses', there are a number of measures that will help to overcome some of the hurdles of doing business. There are also some clear signals of the perception that 'big brother' is watching, with businesses needing to give the Tax Office access to the underlying transaction data in their accounting systems.

Finally, there are a number of special interest measures including pledges of infrastructure spending, incentivisation of onshore manufacturing, and promotion of the Australian space industry the Government hopes will contribute to greater economic prosperity.

Nowhere in this budget are there economy-wide reforms of the type needed to see Australia prosper into the late 2020s and beyond. It is hoped that with the clear air that comes with the immediate post-election period, the next budget will think strategically about enabling a sustainable future.

AUSTRALIAN ECONOMIC OVERVIEW

A strong economic recovery is well underway in Australia, as the economy has proven resilient to the impacts of the COVID-19 pandemic and unexpected events such as recent flooding in parts of Australia and the situation in Ukraine. The major drivers of this recovery include the stronger than expected momentum in the labour market and resulting consumer spending, as well as recent price surges in Australia's commodities on the global market.

CURRENT ECONOMIC PERFORMANCE

At this stage, Australia has been moderately impacted by global inflationary pressures compared to many other advanced economies, with its inflation reaching a 13 year high in the middle of 2021, but reducing since. Soaring oil prices and supply chain disruptions are among some of the major factors that have influenced the increase in the inflation rate in Australia, making an increase in the cash interest rate more plausible in the short term, in order to manage inflationary pressures.

Australia's unemployment rate reached 4%, the lowest rate in almost 50 years, reducing the need for further wage subsidies and resulting in higher-than-predicted income tax collections.

The recent increases in prices of Australia's key export commodities are likely to result in Australia's trade reaching a record high in 2021-22. This will support strong profitability in the mining and agricultural sectors, with likely positive flow through to the broader economy. A significantly reduced budget deficit is the result.

ECONOMIC OUTLOOK

Real Gross Domestic Product (GDP) is expected to grow over 4% in 2021-22, slowly reducing to 2.5% in 2023-24, after it climbed back to pre-pandemic levels during 2021. Further, the level of inflation is expected to moderate in the short term - from 4.25% in 2021-22 to 2.75% per cent in 2023-24.

The Government has transitioned to the medium-term phase of its economic strategy, with priority being placed on the growth of Australia's economy to reduce debt and rebuild fiscal buffers. Net and gross debt as a share of GDP are both expected to decline going forward.

The continued economic recovery is expected to see the unemployment rate fall just below 4% in September 2022, nearly three percentage points below the Budget forecast from two years ago. The strong labour market is expected to accelerate wage growth to its fastest pace in almost a decade. This will be reflected in Australia's Wage Price Index, which is forecast to increase from 2.75% in 2021-22 to 3.25% in 2022-23. In addition, average earnings per hour worked are expected to increase by 5% through the year to June 2022.

This is an impressive recovery given that last year Australia's economy had its first recession in nearly 30 years, due to economic disruption caused by the COVID-19 pandemic.

BDO COMMENT

Australia's impressive recovery from the COVID-19 pandemic, combined with the forecast impacts of this Budget, indicate Australia's economy is tracking on a strong trajectory.

While the declining unemployment rate may be impressive, it could potentially be masking a skills shortage facing key domestic industries. This raises the question whether the Government needs to revise its strategy, shifting focus from reducing unemployment to uplifting the skills of our workforce whilst managing the real risk of inflation that threatens Australia's economy.

Further, the soaring commodity prices are unlikely to hold in the long term, further highlighting the need for Australia to invest in new technology-intensive industries.

EXTENSION OF THE ATO TAX AVOIDANCE TASKFORCE

The Government has announced an extension of the Tax Avoidance Taskforce focussed on multinationals, large corporates and high-wealth individuals. It will further extend the operation of these investigations by two years to 30 June 2025 and provide $325 million in 2023-24 and $327.6 million in 2024-25.

The Taskforce was established in 2016 to undertake compliance activities, detect tax avoidance and protect the integrity of the tax system for all Australians. It also scrutinises specialist tax advisers that promote tax avoidance schemes.

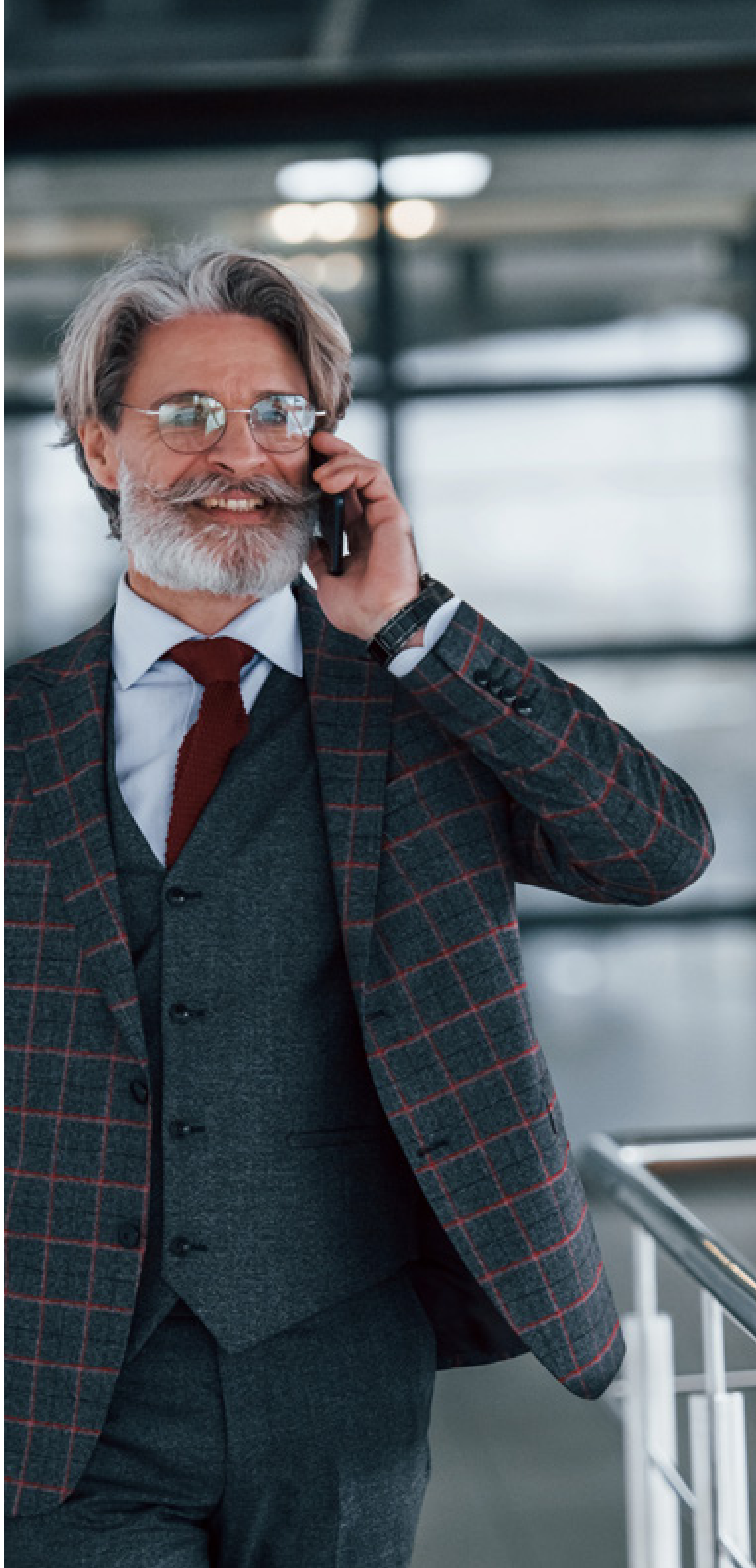
As of June 2021, the Tax Avoidance Taskforce has helped the ATO raise nearly $23 billion in tax liabilities. By extending the measure, the ATO is estimated to increase receipts by $2.1 billion.

BDO COMMENT

BDO agrees with the approach to increase transparency in the administration of the tax system by extending the measures for large businesses and high-wealth individuals. From BDO's experience with these assurance reviews, the ATO has worked collaboratively with taxpayers to improve their tax governance procedures.

However, the extent to which the compliance revenue is a result of the budget measure, resources provided for the Taskforce is uncertain. An Australian National Audit Office review of the Taskforce in 2019 found the ATO could not conclusively demonstrate the Taskforce met the revenue and resourcing commitments set out in the 2016–17 Budget. There is no indication this will change for the current budget cycle.

Further, the ATO's estimated receipts, as a result of these measures are considerably less, and the related expense is higher in this Budget compared to the Government's estimate in the 2019-20 Budget.



INDIVIDUALS

FUEL TAXES – 50% OFF! SIX MONTHS ONLY!

The Government has announced an immediate six month temporary reduction to fuel taxes. Fuel excise and excise-equivalent customs duty rates for petrol, diesel and other fuels (excluding aviation fuels) will be halved from 30 March 2022 to 28 September 2022. This is part of a suite of measures addressing cost of living pressures and aims to deliver direct relief to the retail price of fuel.

Under the current rates, common fuels such as petrol and diesel are subject to excise or customs of 44.2 cents per litre. The change means a new rate of 22.1 cents per litre will apply from Tuesday, 29 March 2022.

However, the price of fuel to consumers should reduce by 24.31 cents per litre after taking into account the GST levied on excise. The excise rate is indexed bi-annually in February and August, with indexation to proceed in August based on half rates.

A reduction in excise levied will, of course, reduce any corresponding fuel tax credit entitlements for businesses. Under the fuel tax credits regime, businesses can claim a fuel tax credit for fuel used in carrying on their business, other than for light vehicles travelling on public roads.

These changes are expected to cost the Government $2.975 billion, when netted off against the reduced fuel tax credit payments, across the next six months.

BDO COMMENT

From a consumer and economic perspective, BDO welcomes this initiative which will reduce the cost of living and promote economic activity and growth. This should provide a six month economic turbo-charge across all industries and sectors, especially if the reduction in transportation costs trickle down to the ultimate consumers of goods and services.

From a business perspective, this should provide a cash boost as it reduces the cost of transport for all goods and services across the country and we hope businesses and consumers in the supply chain will benefit.

For businesses already claiming a good majority of their fuel tax credits, (for example in the mining and agricultural industries,) outside of the cash flow impacts, there will not be much of an effect. However, these businesses will need to update their calculation processes to ensure the revised rates are applied. Care must be taken to identify the precise fuel purchase date, noting the change in rate does not neatly align to an accounting period.

As a matter of practical concern, businesses may need to check any applicable ‘pass through clauses’ and pricing mechanisms in commercial contracts that are sensitive to fuel costs or fuel tax credit entitlements to ensure contract pricing is appropriately administered consistently with the new rates.

No comment was made in relation to the Road User Charge. We would expect this is also subject to the same 50% reduction, but this is yet to be seen.

GOVERNMENT EASES COST OF LIVING PRESSURES

The Government has introduced two new measures intended to ease cost of living pressures for low and middle-income earners, as well as other eligible recipients.

COST OF LIVING TAX OFFSET

Improving on last year's effort, the Government will increase the low and middle-income tax offset (LMITO) for the 2021-22 income year by $420.

LMITO is targeted at low and middle-income earners who are most susceptible to cost of living pressures. Like last year, the LMITO for the 2021-22 income year will be paid from 1 July 2022, when Australians lodge their tax returns for the same income year.

This increase to the LMITO will see low and middle-income earners receive up to a maximum offset of $1,500 – an increase of $420 on the current rate.

Broadly, all LMITO recipients will benefit from the increase, except those that do not require the full offset to reduce their tax liability to zero. All other features of the current LMITO remain unchanged. Consistent with the current LMITO, taxpayers with incomes of $126,000 or more will not receive the additional $420.

COST OF LIVING PAYMENT

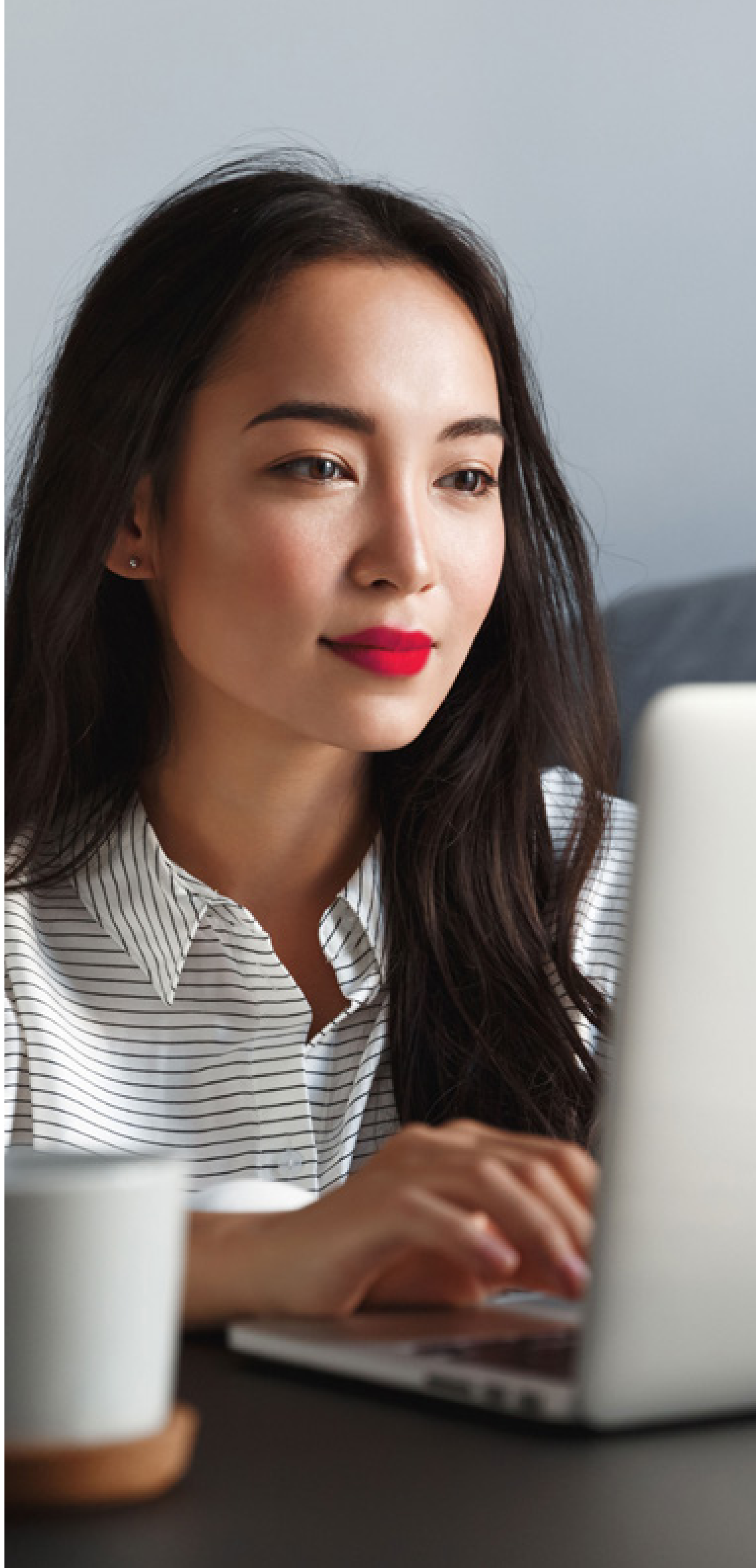
The Government will provide a $250 economic support payment to eligible recipients in April 2022, including those who receive:

- The age pension
- Disability support payments
- Parenting payments
- Jobseeker payments
- Youth allowance payments
- Commonwealth Seniors Health Care Card holders
- Recipients of other government supports.

The $250 payments are exempt from taxation and will not count as income support for the purposes of any income support payment. A person can only receive one economic support payment, even if they are eligible under two or more categories.

BDO COMMENT

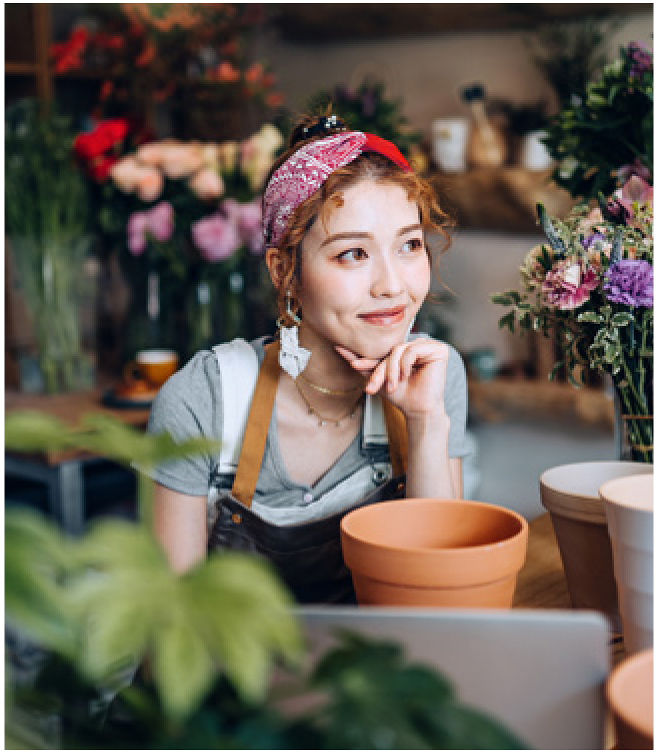
Given the recent cost of living pressures and the upcoming election, the Government could not afford to ignore the current increases in cost of living. Nevertheless, this is only a temporary fix which may not have a long-lasting impact for vulnerable Australians.



TEMPORARY REDUCTION IN SUPERANNUATION MINIMUM DRAWDOWN RULES EXTENDED

Self-funded retirees will be able to continue to choose to reduce their minimum pension drawdown amount by 50%, with the measure extended for a further year to 30 June 2023.

The measure was first introduced in the 2020 financial year, in response to COVID-19's impact on investment markets and allows pension members to withdraw less of their retirement savings, leaving a greater amount invested for the future.



BDO COMMENT

The extension of flexibility in managing superannuation savings is a positive inclusion in the budget for self-funded retirees. The question is, with inflation and rising costs of living impacting all Australians, will retirees be able to take advantage of this concession?

PAID PARENTAL LEAVE

Building on the Women's Economic Security Package announced in the 2021-22 Federal Budget, the Government has announced changes to enhance the Paid Parental Leave Scheme and improve economic security for women.

This scheme rolls Dad and Partner Pay into a single Parental Leave pay scheme of up to 20 weeks, which is fully flexible and able to be shared between eligible working parents as they see fit.

The Government says its paid parental leave changes, costing $346.1 million over five years, will give families the opportunity to take leave any time within two years of the birth or adoption of the child. Further, the Government has promised this will not result in any existing eligible applicants being worse off. This notion is supported by an expanded eligibility household income means test of $350,000 (previously restricted to mothers earning less than $150,000 per annum) to access the taxpayer-funded leave.

BDO COMMENT

As the overwhelming majority of parents who use primary carer leave through the Government's Parental Leave Pay are women, BDO welcomes the changes aimed to support women returning to the workforce and providing equality and flexibility for both working parents. Whilst this looks like a win for many Australian households, don't rush in just yet, as the measures are not expected to be introduced until 1 March 2023 – disappointingly more than nine months after this year's budget!

HOUSING AFFORDABILITY MEASURES

The Government has enhanced its First Home Guarantee and Family Home Guarantee Schemes to support first home buyers, and single parents to break into the property market with lower minimum deposits. A Regional Home Guarantee Scheme has also been introduced, with the aim of supporting buyers in regional areas.

HOME GUARANTEE SCHEME

The Home Guarantee Scheme was initially introduced in 2021 and guaranteed 10,000 mortgages for eligible individuals to purchase a home with a minimum 5% deposit.

This year the Government has extended the scheme to provide 35,000 places to first home buyers, 5,000 places to single parents and 10,000 places for buyers in regional areas in the newly released Regional Home Guarantee.

The Family Home Guarantee is available to single parents with at least one dependant and allows them to obtain a loan with a minimum deposit of 2%. The Family Home, and Regional Home Guarantee, will provide 5,000 and 10,000 places respectively each year until 30 June 2025. The guarantee provided under these schemes allow eligible buyers to purchase a home with a reduced deposit, without having to pay lenders mortgage insurance.

Individuals with a taxable income up to $125,000, and couples with a taxable income up to $200,000, will be eligible for the First Home Guarantee.

BDO COMMENT

This policy is aimed at assisting a broader range of people to enter the housing market and will likely achieve that goal. However, with increasing interest rates looming, and the housing affordability crisis spurred on by COVID not looking like slowing down, the long-term affordability of these schemes will eventually come into question.

EMPLOYEE SHARE SCHEMES

In last year's Federal Budget, the Government committed to a review of the legislation governing the Employee Share Scheme (ESS) provisions. The 2022-23 Budget announcement is a continuation of the Government's intention to improve the ESS rules by reducing compliance red tape in order to expand access for all employees to directly participate in the growth of their employers.

DISCLOSURE REQUIREMENTS

The *Corporations Act 2001* (Cth) requires a company that makes an ESS offer to provide the employee a disclosure document, unless an exemption in that Act applies, or the company can rely on the relief in the ASIC Class Order 14/1001.

Under this Class Order, unlisted entities are currently provided with relief from certain disclosure obligations, advertising and hawking restrictions and Australian Financial Services Licence (AFSL) obligations when offering ESS interests.

For unlisted entities to access this relief, they must offer:

- Fully paid voting ordinary shares or options and rights that related to fully paid voting ordinary shares
- Interests for no more than nominal monetary consideration which, in aggregate, do not exceed $5,000 in value per participant per year
- Interests with reasonable grounds to believe the number of shares that have been, or may be issued under the current offer, when aggregated with offers made under ASIC relief during the previous three years, do not exceed 20% of the issued capital of the unlisted body.

REDUCED RED TAPE

The proposed changes allow unlisted companies to make larger offers of ESS interests to participants by allowing:

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

The proposed changes also remove the same regulatory requirements for offers to independent contractors, where they do not have to pay for interests.

BDO COMMENT

The Australian ESS rules are complex and not usually aligned with other jurisdictions in the world. While this is a small step in the right direction, more work needs to be done to ensure Australian companies are competitive globally in order to retain local talent. In particular, these regulatory changes do not address the situation where the taxing point for the ESS interests occur before the shares are liquid, leaving the employee with a tax burden prior to the receipt of any cash to fund the liability.

BUSINESS

SMALL BUSINESS ENTITIES – SKILLS AND TRAINING, AND TECHNOLOGY INVESTMENT BOOST

The Government is continuing its support of small businesses by introducing boosts for both skills and training, and technology investment.

SKILLS AND TRAINING BOOST

Small businesses with an aggregated annual turnover of less than $50 million, will be able to deduct an additional 20% of expenditure incurred on external training courses provided to their employees.

The external training courses must be delivered by entities registered in Australia and are required to be provided to employees either in Australia or online.

Expenditure incurred between 7.30pm (AEDT) on 29 March 2022 and 30 June 2022 will be eligible to have the boost claimed on the 2023 income tax return. Expenditure incurred between 1 July 2022 and 30 June 2024 will have the boost included in the income year where the expenditure was incurred.

TECHNOLOGY INVESTMENT BOOST

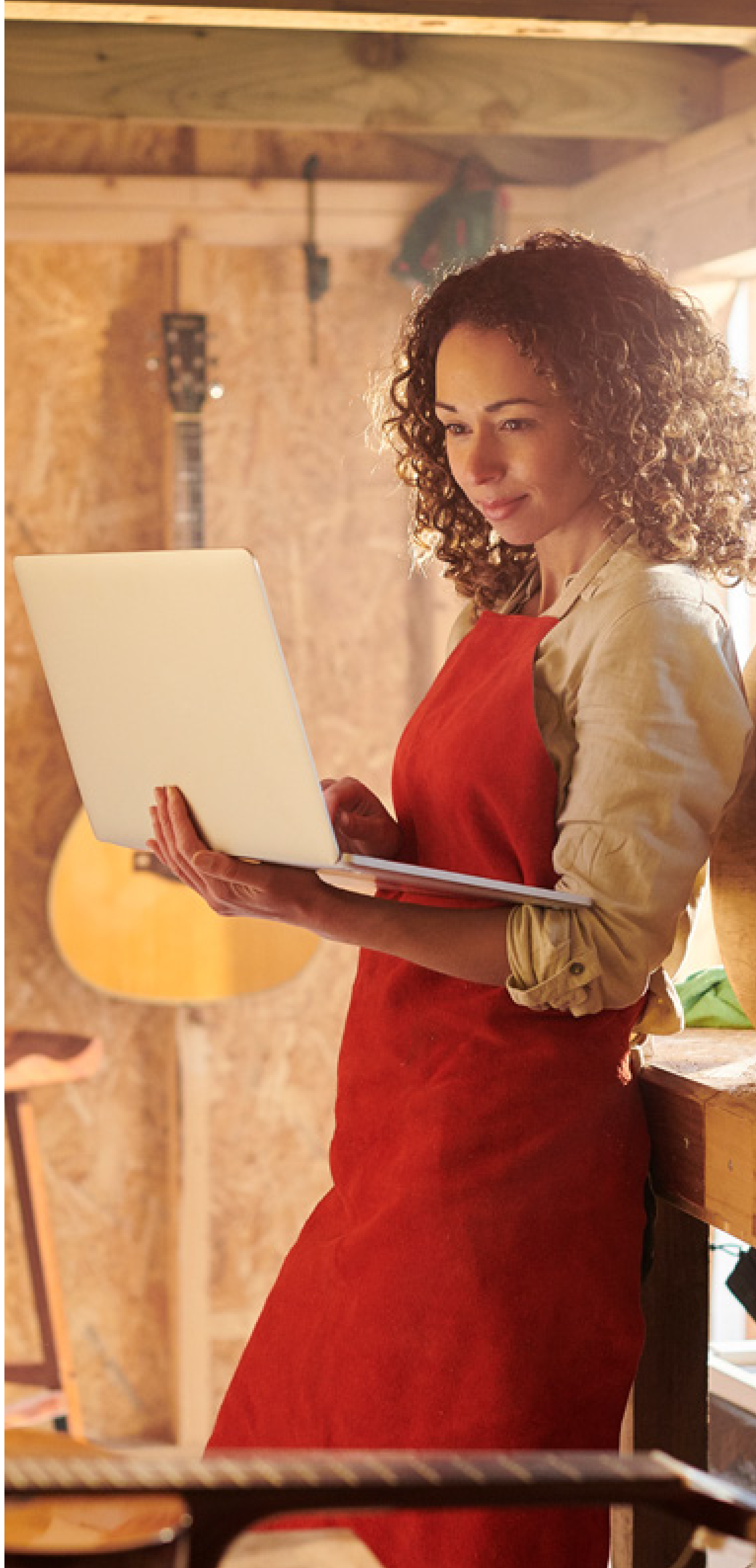
Small businesses with an aggregated annual turnover of less than $50 million, will be able to deduct an additional 20% of expenditure incurred to support digital adoption, including on the purchase of depreciable assets.

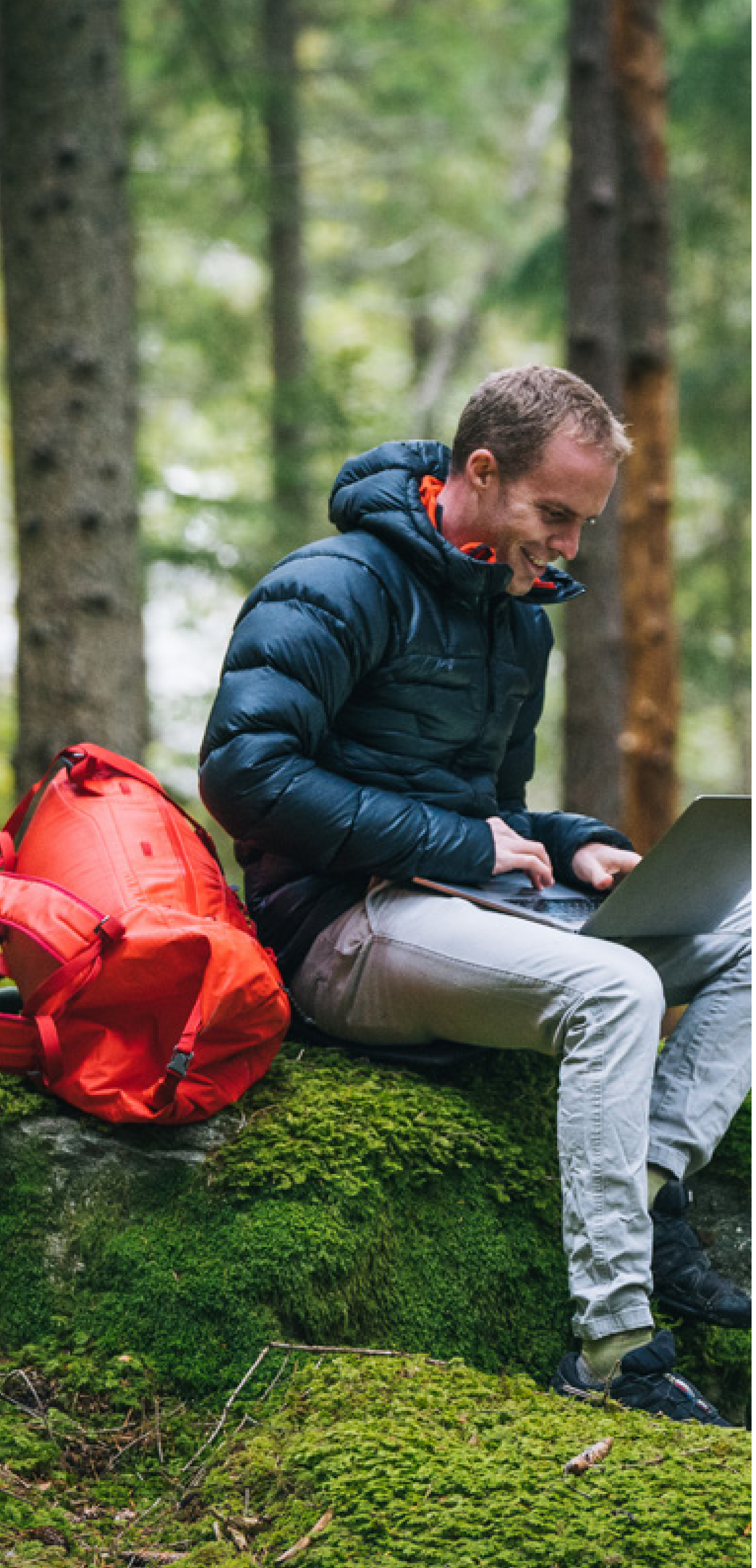
Eligible expenditure includes portable payments devices, cyber security systems and subscriptions to cloud-based services. An annual cap of $100,000 will apply in each qualifying income year.

Expenditure incurred between 7.30pm (AEDT) on 29 March 2022 and 30 June 2022 will be eligible to have the boost claimed on the 2023 income tax return. Expenditure incurred between 1 July 2022 and 30 June 2023 will have the boost included in the income year where the expenditure was incurred.

BDO COMMENT

BDO welcomes the Government's support of small businesses and hopes it will assist in upskilling the workforce and providing advanced technological infrastructure as we begin to navigate life in a post-COVID economy. While the caps are somewhat arbitrary, setting the turnover requirement at $50 million will allow a large number of businesses to benefit.





EXPANDING THE PATENT BOX REGIME

The Government will expand its patent box tax regime from only applying to the medical and biotechnology sectors to also include the agricultural sector, and low emissions technology innovations.

In line with the initial May 2021 announcement and subsequent draft legislation introduced in February 2022, this regime will effectively result in a concessional tax rate of 17% for ordinary income derived from exploiting Australian-owned and developed patents that fall under these areas. This represents a decrease in the corporate tax rate of 13% for large businesses and 8% for small and medium enterprises.

However, it is important to note, unlike the medical and biotechnology sectors for which the regime will apply from 1 July 2022, the expanded application to the agricultural sector, and low emissions technology innovations, will only apply from 1 July 2023. In addition, details of the expansion of the patent box regime are yet to be finalised, pending consultation with industry experts.

BDO COMMENT

BDO welcomes the extension of the patent box regime to include agricultural, and low emissions technology innovations. This extension will continue to incentivise the international commercialisation of Australian-developed technology to be retained in Australia, resulting in numerous flow-on benefits such as further investment and development activities. However, to be truly competitive with other jurisdictions, the regime should be further extended to be industry agnostic and the concessional rate should be made more competitive.

MODERNISATION OF THE PAYG INSTALMENT SYSTEM

The Government has announced two new policies to update the PAYG instalment system which require businesses to report and pay their tax obligations via instalments throughout the year.

First, business taxpayers can now choose to have the ATO automatically calculate their quarterly PAYG instalment amounts based on live financial information captured from their accounting software, subject to certain tax adjustment calculations. This is advertised as an improvement to the current system which largely relies on projecting expected income tax based on past tax returns. Allowing businesses to automatically report their financials aims to reduce compliance burdens and produce instalments more reflective of the end of year tax amount due. The Government expects this system to be in place by 1 January 2024.

Second, the Gross Domestic Product (GDP) uplift factor, which is used to adjust PAYG instalments from year to year, has been set at a flat 2% for the 2022-2023 tax year. The GDP uplift rate is lower than the statutory default rate of 10% which would have otherwise applied, resulting in lower PAYG instalments for eligible taxpayers. However, this is higher than the 0% rate that was available in the 2021-2022 financial year. The lower 2% rate will be available to small and medium businesses that have an aggregate turnover of less than $50 million for PAYG instalments and $10 million for GST instalments.

BDO COMMENT

The Government's goals regarding PAYG instalments appear to be twofold - make sure you pay the right amount and - pay on time. The stated purposes of these changes are to improve cashflow of businesses and help taxpayers with their reporting obligations. Hopefully, this will make the tax collection system more responsive to changing economic activity. The advantages of these changes are definitely desirable, but this budget also includes beefed up funding for the extended Tax Avoidance Task Force and compliance enforcement generally. Live information being fed to the ATO will create less room for error and possibly less scope for tax planning. To paraphrase Mr Orwell, if you want to keep a secret, you must also hide it from yourself, because the Commissioner is watching…

SMARTER REPORTING OF TAXABLE PAYMENTS

Many Australian businesses are currently required to complete a *Taxable payments annual report (TPAR)* by 28 August of each year. TPARs capture payments made to contractors for services provided to the business.

TPAR is an industry-specific reporting requirement, and only includes payments made towards contractor services in building and construction, cleaning, road freight, courier, information technology and security, investigation or surveillance industries. The data from TPARs is then used by the ATO to match the annual income declared by contractors.

WHAT IS CHANGING?

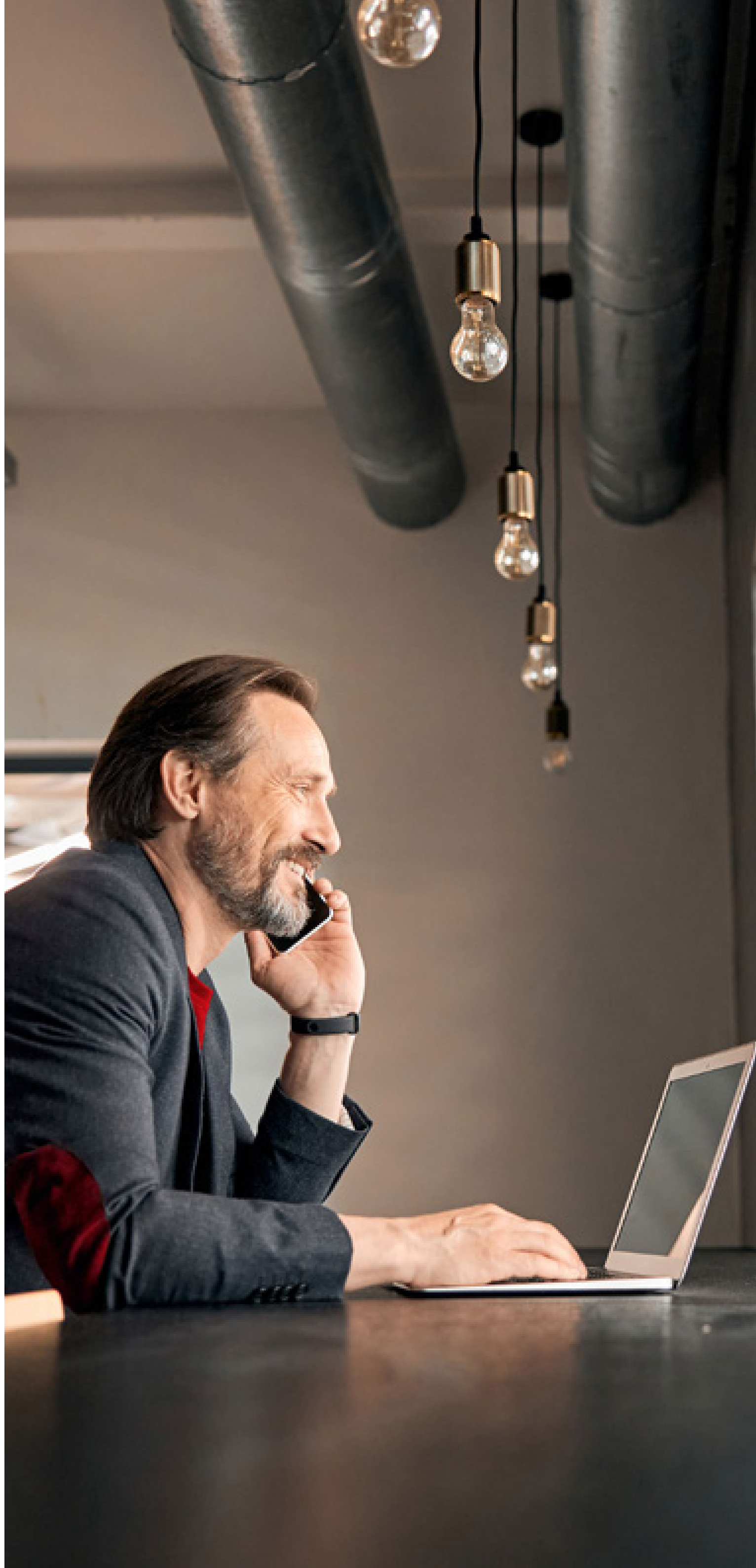
From 1 January 2024, the Government will allow businesses to align its taxable payments report with its activity statement reporting cycle through its businesses accounting software.

The Government hopes this will result in more accurate and timely reporting, while lowering compliance costs for taxpayers.

BDO COMMENT

In line with the remainder of the budget which focusses on investment in technology and digital assets, the Government is hoping to streamline the reporting requirements of taxpayers through the use of improved software services. BDO welcomes any change that will lower the compliance requirements for taxpayers, particularly through the use of accounting software.

We also note that once TPARs in these industries can be made in a streamlined manner, there is nothing to prevent the extension of the regime to all industries and all recipients of payments.



ENHANCED SHARING OF SINGLE TOUCH PAYROLL DATA

Single Touch Payroll (STP) is an initiative currently implemented by the Government to reduce an employer's reporting burdens to government agencies. Under the STP initiative, an employer is required to report its employees' salaries and wages, PAYG withholding and superannuation information under a streamlined reporting software, directly to the ATO.

COMMITMENT OF GOVERNMENT FUNDING TO STATES AND TERRITORIES

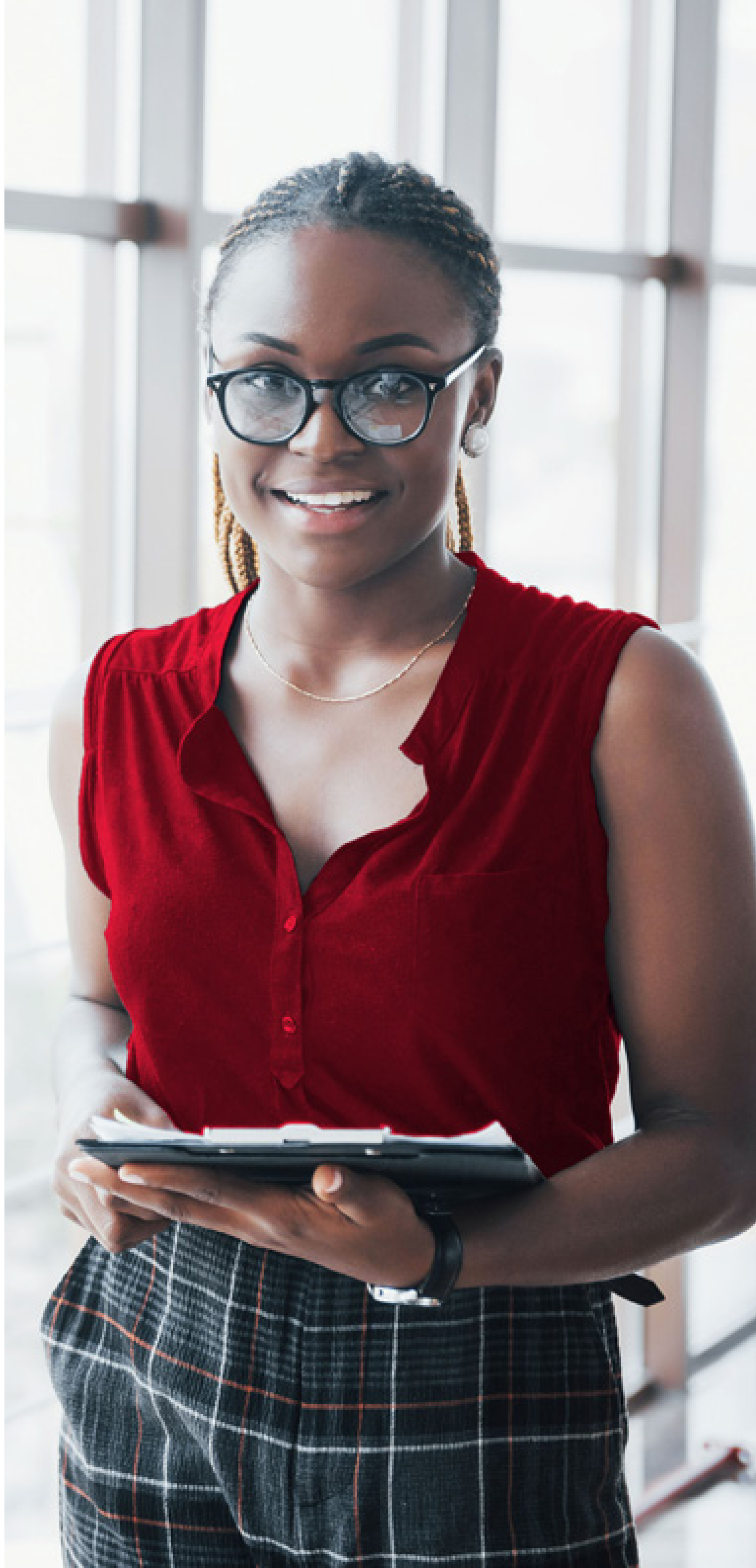
The Government will commit $6.6 million in developing IT infrastructure to allow STP data to be shared on a continuing basis between the ATO and State and Territory Revenue Offices. Funding from the Government will be dependent on the extent to which each state and territory is willing to streamline their current systems and payroll tax compliance processes.

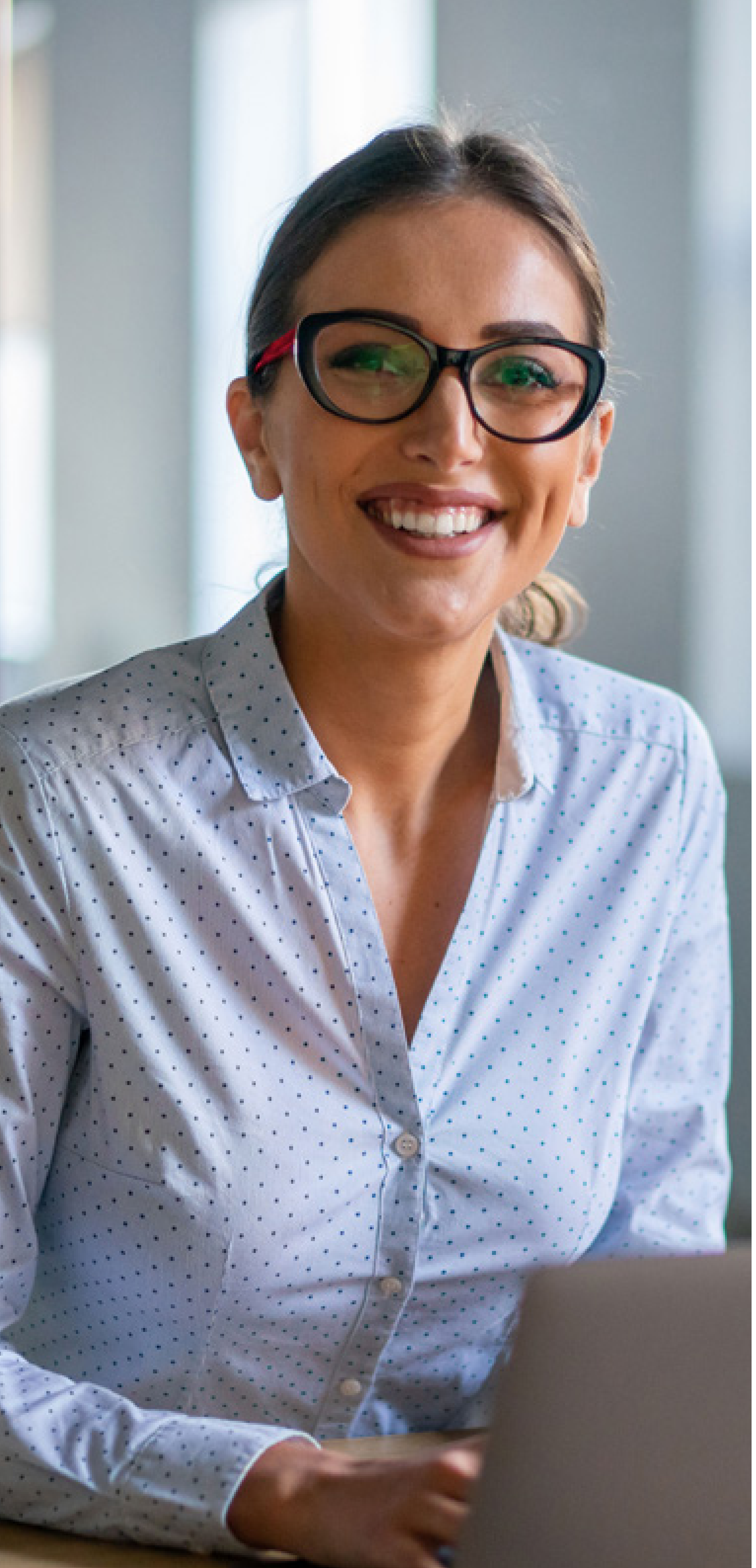
BDO COMMENT

BDO acknowledges the sharing of information between the Federal Government and State and Territory agencies will increase as a result of these new measures. While this may serve to reduce compliance costs for businesses, BDO questions the immediate effectiveness of these measures given the requisite funding is dependent on each state and territory's willingness to make investments in their own internal systems and processes.

The automation of processes will move to promote business efficiencies, but also continues a growing trend of the ATO having greater visibility into the taxpayer's financial systems. State revenue offices currently rely on various sources for their data matching systems, including from federal income tax returns and pay as you go (PAYG) data.

It will be important for businesses to focus on reconciling their STP data to their payroll tax returns as we are likely to see an increase in audit activity from state revenue offices where there are discrepancies between STP and payroll tax data.





DIGITALISATION OF REPORTING – A LONG OVERDUE DEVELOPMENT

A key talking point preceding the Federal Government's 2022-2023 Budget was the continued modernisation of the Australian tax reporting system. A step forward has been taken through the proposed digitalisation of trust and beneficiary income reporting and processing. However, the Government has also taken a surprising step back with the 12 month deferral of the start date of the Black Economy – strengthening the Australian Business Number (ABN) system measures.

ELECTRONIC LODGEMENT OF TRUST RETURNS

All parties required to lodge a trust tax return will now be permitted to lodge electronically from 1 July 2024. Previously, trust tax returns for large managed investment trusts and public unit trusts have been excluded from the electronic lodgement requirement. The continued digitalisation of this process will assist with reporting, as increased pre-filling will lessen the compliance burden on taxpayers and reduce processing times. Likewise, this measure is expected to enhance ATO assurance processes.

BLACK ECONOMY MEASURES

Conversely, the Government has deferred the start date of the black economy system measure announced in the 2019-2020 Federal Budget. Under current law, income tax compliance doesn't impact the ability to hold an ABN. The proposed measures outline ABN holders can be stripped of their ABN through the discretion of the ABR Registrar if they fail to meet income tax lodgement requirements. Additionally, they will be required to confirm the accuracy of their details on the ABR annually.

Accordingly, these measures have been deferred by a further 12 months:

- From 1 July 2022, ABN holders are required to comply with income tax obligations to maintain their ABN
- From 1 July 2023, ABN holders must confirm the accuracy of their details on the ABR annually.

BDO COMMENT

The continued digitalisation of tax reporting is welcomed by taxpayers and practitioners alike. The current exclusion of some trust entities from electronic lodgement is an archaic oversight that ought to be resolved. The black economy measures have faced significant delay in their implementation by the Government, and BDO encourages taxpayers to ensure their compliance with tax obligations before the ATO finally pull the enforcement trigger.

QUIETLY DISMISSED COVID-19 SUPPORT MEASURES

The Government has chosen to not extend multiple support measures previously aimed to incentivise increased investment in Australian businesses and help businesses recover from the impacts of COVID-19. In particular, the loss carry-back tax offset and the highly publicised temporary full expensing incentive and instant asset write–off, will no longer be available for income years ending after 30 June 2023.

CURRENT LAW

Loss carry back tax offset

Currently, companies with an aggregated turnover of less than $5 billion may carry back losses incurred in the 2020 to 2022 income years to the 2019 income year onwards. The following limitations are in place and will continue to apply with respect to the loss carry-back measure:

- Losses carried back cannot be more than the earlier taxed profits
- The loss carry-back amount must not generate a franking account deficit.

Companies that elect to apply this measure will receive a tax refund in the loss-making year equal to the amount which has been offset by the losses carried back.

Temporary full expensing

Under the current law, businesses with an aggregated turnover of less than $5 billion are entitled to an immediate deduction for the cost of depreciating assets purchased after 7.30pm (AEDT) on 6 October 2020, and first used, or installed ready for use, by 30 June 2023.

Businesses with an aggregated turnover exceeding $5 billion may also be entitled to an immediate deduction under the 'alternative test', which requires Australian income of less than $5 billion, and the cost of depreciating assets for the 2017, 2018, and 2019 income years, to exceed $100 million.

MOVING FORWARD

Loss carry back tax offset

The Government has not extended the loss carry back tax offset past income years ending after 30 June 2023.

Temporary full expensing

The Government has not extended the temporary full expensing measures past income years ending after 30 June 2023. No announcement has been made as to whether the instant asset write-off incentives will be reintroduced after the end of temporary full expensing.

IMPACTS

While these measures end on 30 June 2023, businesses still have a strong opportunity to benefit from these support measures in the 2022 and 2023 income years. As a result, careful capital expenditure planning over these years can result in increased tax deductions and potentially a better post-tax cash position.

BDO COMMENT

BDO is disappointed the Government has decided not to extend these support measures as it is clear businesses and clients are still recovering from the long-term economic impact caused by the COVID-19 pandemic. BDO believes in order to achieve the economic recovery the Government is aiming for, an additional extension of the temporary full expensing measure was warranted.

COVID-19 MEASURES

The Government has made a number of announcements in this year's Budget regarding COVID-19 measures as set out below.

TAX DEDUCTIBILITY OF COVID-19 TESTS

The Government has confirmed the costs of taking a COVID-19 test to attend a place of work will be tax deductible from 1 July 2021. This also means no Fringe Benefits Tax (FBT) will apply where employers provide or reimburse costs for the COVID-19 tests. This is because the FBT is effectively reduced to $0, where the employees would have received a tax deduction if they paid for the test themselves.

Under the current income tax law, such expenditure incurred by individuals may, in certain circumstances, be considered private or domestic expenditure and therefore not tax deductible in their individual tax return. Where the expenditure is met by the employer, under the current FBT law, FBT could also apply.

We note there is an FBT exemption currently available where the testing is carried out by a legally qualified medical practitioner or nurse, and testing is available to all employees. However, this is not met in the case of Rapid Antigen Tests administered by the employee themselves. Further, there is currently an FBT exemption available where the testing costs for the employee is less than $300 and provided on an infrequent or irregular basis, however, this is also not met in practice where the tests are required to be used frequently or regularly.

This measure is not new, as it was previously announced by the Treasurer on 7 February 2022.

Where the COVID-19 test is provided in order for an employee to undertake a work-related trip, this expenditure is already tax deductible under current law. Also, no FBT results where the employer provides or reimburses the work-related travel.

NON-ASSESSABLE COVID-19 BUSINESS GRANTS

The Government has extended the measure previously announced in September 2020, enabling certain business grants to be treated as non-assessable, non-exempt income for income tax purposes, until 30 June 2022.

The Government has made the following additional state and territory grant programs eligible for this treatment:

- New South Wales Accommodation Support Grant
- New South Wales Commercial Landlord Hardship Grant
- New South Wales Performing Arts Relaunch Package
- New South Wales Festival Relaunch Package
- New South Wales 2022 Small Business Support Program
- Queensland 2021 COVID-19 Business Support Grant
- South Australia COVID-19 Tourism and Hospitality Support Grant
- South Australia COVID-19 Business Hardship Grant.

These support payments will only be eligible as non-taxable, where the taxpayer carried on a business, and has an aggregated turnover of less than $50 million in either the income year the payment was received or the previous income year.

BDO COMMENT

While these COVID-19 measures have been announced previously, we welcome the confirmation from the Government they will be proceeding.

We would like to see the COVID-19 test measure fast-tracked, so it is in place in time to give employers certainty when lodging their 2022 FBT returns. However, since the due date for lodgement of the 2022 FBT return is 21 May 2022, where employers lodge the return themselves (rather than through a tax agent), there seems to be little time to achieve this goal, particularly with an election looming.

FARM RESILIENCE MEASURES EXTEND TO CARBON, BIODIVERSITY

Presently, farmers who sell Australian Carbon Credit Units (ACCUs) generated from on-farm activities cannot treat the sales proceeds as primary production income. Similarly, income from biodiversity offset schemes is not primary production income.

The Government will amend the tax law so income from the sale of ACCUs and biodiversity certificates will be treated as primary production income for the purposes of primary production tax averaging and the Farm Management Deposit (FMD) scheme. This treatment will apply to biodiversity certificates created once the Biodiversity Stewardship Market Bill becomes law.

Additionally, the Government appears set to allow eligible primary producers to opt-out of the rolling balance mechanism that applies to ACCUs. They will only be taxed in the year when ACCUs are sold.

The current tax laws that deal with ACCUs were drafted when farmers were excluded from the Carbon Pollution Reduction Scheme, so their impact on primary producers was never properly considered. Subsequent changes in climate policy have altered the mechanism so now farmers are generating ACCUs, but the tax laws haven't kept up.

BDO COMMENT

BDO welcomes these amendments. They signal an acknowledgement by the Government that environmental services provided by farmers are part and parcel of their primary production activities, rather than a different business activity altogether, as is the situation under the current law. Farmers should have the reassurance their tax position will reflect that income from carbon or biodiversity credits is the same as any other farm income.

Farm businesses are increasingly considering ACCUs not just as an additional income stream, but also as they consider how they can achieve net-zero in their own operations. Allowing farmers to defer the taxing point to the disposal of an ACCU means there won't be tax costs where ACCUs are held for several years.

However, it will be important to ensure the deductibility of costs relating to generating or acquiring ACCUs is not inappropriately deferred by these amendments.

In our view, the amendments should go further. They should extend the proposed tax treatment to carbon credit schemes that are not currently able to be registered on the Australian National Registry of Emissions Units. They should also extend to environmental credits that may not be covered within the proposed biodiversity certificate scheme.

ADDITIONAL FUNDING FOR PRIORITY INFRASTRUCTURE PROJECTS

The Government has committed a further $17.9 billion to fund existing and new priority infrastructure projects across Australia. The funding will support major infrastructure projects with a focus on improving regional roads and freight networks. It is estimated the increased investment in infrastructure will create 40,000 jobs across every State and Territory.

STATE AND TERRITORY MEASURES

Queensland

The Government will commit a further $3.3 billion to prioritising regional and urban road and rail infrastructure projects in Queensland. The additional funding will be allocated to key projects such as:

- $1.6 billion for the Brisbane to Sunshine Coast Rail Extension
- $1.1 billion for the Brisbane to Gold Coast Faster Rail Upgrade
- $190 million for the Mount Isa to Rockhampton Corridor Upgrade.

Australian Capital Territory

The Government will provide a further $51 million for key projects in the Australian Capital Territory including:

- $46.7 million for the Athlon Drive Duplication
- $2.8 million for Kent Street and Novar Street Intersection Upgrades.

Northern Territory

The Northern Territory will receive an additional $237 million in funding for priority road and rail projects. Key road projects as part of the additional funding include:

- $132 million for Central Australian Tourism Roads
- $50 million for Alice Springs to Halls Creek Corridor Upgrade.

New South Wales

New South Wales will receive an additional $3.3 billion in funding from the Government. This additional spending will help fund key projects including:

- $1 billion for the Sydney to Newcastle Faster Rail Upgrade
- $352 million for the Milton Ulladulla Bypass
- $336 million for upgrades to the Pacific Highway.

South Australia

South Australia will benefit from an additional $2.8 billion in funding bringing the Government's total commitment in the state to over $13.7 billion since 2013-2014. The increased spending on major infrastructure will include:

- $2.3 billion for the North-South Corridor – Darlington to Anzac Highway
- $200 million for Marion Road – Anzac Highway to Cross Road.

Western Australia

The Government will provide an additional $1.7 billion in road and rail funding to Western Australia. The additional funding will focus on key projects such as:

- $441.2 million for the METRONET
- $320 million for the Bunbury Outer Ring Road
- $140 million for Regional Road Safety Upgrades.

Victoria

The Government will allocate a further $3.4 billion in funding for a variety of road and rail projects in Victoria. Spending on major infrastructure upgrades will include:

- $3.1 billion for the Melbourne Intermodal Terminal
- $109.5 million for the Ballarat Corridor Upgrade
- $23.1 million for the Canterbury Road Upgrade.

Tasmania

The Government will provide an additional $639.9 million in funding for priority road and rail projects in Tasmania including:

- $336 million for the Tasmania Roads Package
- $100 million for Great Eastern Drive Tourism Support.

BDO COMMENT

The increase in funding will certainly support economic recovery and drive jobs growth in the construction sector. Whether this is a good thing in the currently constrained labour market remains to be seen.

While not providing immediate congestion relief, the focus on improving road and rail networks to help improve supply chain productivity and reliability is welcome. We hope these benefits better connect regional businesses and exporting industries with domestic and international markets.

INDUSTRY, SCIENCE, ENERGY AND RESOURCES, HEALTH AND DEFENCE FUNDING

The Government has announced more than $360 million over the next three years to continue to support a number of initiatives in the Industry, Science, Energy and Resources portfolios, in addition to further funding under the Health and Defence portfolios.

MANUFACTURING

The Government has provided an additional $328.3 million over five years from 2021-22 to further support the Modern Manufacturing Strategy and National Manufacturing Priorities (NMPs) and address critical supply chain vulnerabilities. The funding includes $250 million over two years from 2022-23 to extend the Modern Manufacturing Initiative (MMI) to support businesses in NMP sectors to deliver high-impact projects.

In addition, there has been $53.9 million allocated over four years from 2021-22 to extend the Manufacturing Modernisation Fund (MMF) to support technology adoption in NMPs. A further $6.9 million has been allotted over two years from 2021-22 to develop Manufacturing Investment Plans to guide government and industry investment in NMPs.

The Government has also committed $60.4 million over four years from 2022-23 in additional funding under the *Recycling Modernisation Fund*. Such funding will boost Australia's plastic recycling capability through investment in state-of-the-art technologies and advanced recycling solutions.

SPACE

The Government had previously announced $1.3 billion from 2021-22 (and $38.8 million per year ongoing) for the Australian space sector and space manufacturing industry. This includes $1.2 billion to establish Australia's first National Space Mission for the procurement and operation of Australian satellites, delivering sovereign capability in Earth observation. Funding also includes:

- $65.7 million over five years (and $38.5 million per year ongoing) to support the launch of space assets
- $12.1 million over five years to remove cost recovery requirements under the Space (Launches and Returns) Act 2019 and undertake a regulatory reform program to streamline interactions with industry
- $9.5 million over two years to develop a Space Strategic Update to provide direction on future funding opportunities
- $3.5 million in 2022-23 to extend the International Space Investment Initiative and continue building relationships with foreign partners.

DEFENCE

As part of its overall defence budget, the Government has announced $151.6 million over five years from 2021-22 to continue existing defence industry support programs for SMEs, including:

- $84.7 million for the Sovereign Industrial Capability Priority Grants Program
- $20.3 million for the Skilling Australia's Defence Industry Grant Program.

VACCINE DEVELOPMENT AND HEALTH

The Government has announced:

- Establishment of sovereign mRNA vaccine manufacturing capability in collaboration with Moderna and the Victorian Government to provide Australians with priority access to mRNA vaccines
- Commitment of a further $1.3 billion towards the Medical Research Future Fund (MRFF) Ten Year Investment Plan. The updated $6.3 billion MRFF Plan includes a further $604.8 million towards translating medical discoveries into medical practice, $114.9 million to assist researchers tackle complex challenges through investment, leadership and collaboration, $117.4 million to assist patients through the funding of innovative treatment options and clinical trials and $495.4 million to assist medical researchers make breakthrough discoveries and progress their careers in Australia
- Extension of the Biomedical Translation Fund's (BFT) initial investment period by three years to assist in the commercialisation of biomedical discoveries.

RESOURCES AND ENERGY

The Government will provide $250.5 million over five years from 2022-23 to help early-stage Australian critical minerals projects reach market readiness. This includes $200 million over five years in grants under the Critical Minerals Accelerator Initiative to advance critical minerals projects through the planning to demonstrate phases, and $50.3 million to establish a virtual Critical Minerals R&D centre.

EMISSIONS REDUCTION

Following trends established in the 2020-2021 and 2021-2022 Budgets, the Government is continuing its commitment to invest heavily in new and emerging technologies focused on emissions reductions. This includes a further $446.1 million over five years from 2021-22 to increase energy security, maintain energy affordability and reduce emissions for households and businesses consistent with Australia's Long Term Emissions Reduction Plan.

This includes $247.1 million to support private sector investment in low emission technologies such as hydrogen, $148.6 million to support reliable power in rural Australia such as community microgrid projects, and $50.3 million to accelerate priority gas infrastructure projects, and funding to remain available under the Emissions Reduction Fund or Climate Solutions fund.

EXPORT MARKET DEVELOPMENT GRANT

An additional $80 million has been added to the Export Market Development Grant (EMDG) scheme to assist Australian businesses re-establish their export markets.

REGIONAL ACCELERATOR PROGRAM (RAP)

The Government has announced $2 billion in funding over five years from 2022-23 to drive economic growth and productivity in regional Australia. Whilst it is unclear how the funding will be allocated, it is slated to assist regional businesses and communities better access existing programs including the MMI, EMDG, Recycling Modernisation Fund, Defence Industry Programs, Critical Minerals Accelerator Initiative, and Australian Apprenticeship Initiatives.

BDO COMMENT

BDO welcomes the additional funding under the Industry, Science, Energy and Resources, Health and Defence portfolios that will continue to support the Government's six priority sectors, address critical supply chain vulnerabilities, invest in emerging industries such as the space sector and support rural Australia. However, we await further detail on specific incentives for businesses to understand how they will access specific opportunities, particularly under the National Space Mission.

We would prefer to see funding distributed more broadly across the portfolio to reach more entities than just those in the Government's priority sectors. It is also worth noting the Government is still yet to announce the outcome of several grant programs announced in the 2021-2022 Budget.

MISCELLANEOUS AMENDMENTS TO LEGISLATION

The Government has made various minor amendments to legislation in an attempt to clarify the law and ensure its clear operation. The two minor amendments of note are the tax-records education direction and amendments to intangible asset depreciation.

TAX-RECORDS EDUCATION DIRECTION

Under the current law, an entity is liable for an administrative penalty where it fails to comply with its record-keeping obligations under a taxation law.

The proposed new law offers an alternative to the payment of administrative penalties, in certain situations. It empowers the Commissioner to issue a tax-records education direction which will require an entity to complete an approved record-keeping course, where the Commissioner reasonably believes the entity has failed to comply with one or more specified record-keeping obligations.

This measure seeks to address instances of non-compliance and knowledge gaps with record-keeping obligations, by assisting businesses to better understand their obligations under the taxation law.

The Commissioner may only issue a direction to an entity which they reasonably believe is not disengaged or deliberately avoiding its record-keeping obligations.

INTANGIBLE ASSET DEPRECIATION

The new law allows a taxpayer to choose to self-assess the effective life of intangible depreciating assets rather than using the statutory effective life specified under the law. This choice can be made in relation to intangible assets the taxpayer starts to hold on, or after, 1 July 2023.

This applies to:

- A standard patent
- An innovation patent
- A registered design
- A copyright
- A licence
- A licence relating to a copyright
- In-house software
- A spectrum licence
- A telecommunications site access right.

The new law allows the taxpayer to recalculate the effective life in later income years if the effective life the taxpayer has been using is no longer accurate because of changed circumstances relating to the nature of the asset's use.

If the cost of the asset increases by at least 10% in a later income year, the taxpayer must recalculate the effective life of the asset.

BDO COMMENT

While these measures relate to very separate issues, both attempt to align the application of the law, with the intent behind the law. BDO welcomes the education directive amendment as education is always better than a penalty.

BDO also welcomes the ability for a taxpayer to choose to self-assess the effective life of intangible depreciating assets, as it provides more flexibility for taxpayers to take into account their commercial circumstances.

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