Federal Budget October 2022 Review

As expected, Labor's first Budget was filled with measures aimed at easing the cost of living over the coming years, addressing the challenges of a slowing economy, and introducing investments designed to place Australia in a stronger position for the future.

For superannuation and tax, the announcements were mainly recommitments from earlier Budgets. This includes the change to the eligibility age for downsizer contributions. The stage 3 tax cuts for 2024 are also unchanged.

Instead of focusing on super and tax, most of the proposals centred around investing into key sectors and infrastructure, and providing affordable housing for more Australians through a new national Housing Accord.

Superannuation

Providing certainty on unlegislated superannuation measures announced by the previous Government

The Government has reviewed and confirmed a number of unlegislated superannuation measures which were announced by the previous Government:

- Deferring the proposed relaxing of the 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. This measure was originally announced in the 2021-22 Budget and included extending the safe harbour for the central management and control test from two to five years and removing the active member test.
- Not proceeding with the proposal to allow certain SMSFs to change from an annual audit requirement to a three year audit cycle.
  This measure was originally announced in the 2018-19 Budget and has remained unlegislated and mostly forgotten about after industry expressed a range of concerns in relation to the proposed measure.

Additional Comment

While confirmation that the Government still intends to proceed with legislation to relax the residency requirements for SMSFs is welcome, the Budget was silent on whether the Government also intends to proceed with the unlegislated measure to allow a two-year window for members to commute certain legacy complying income streams.

The Budget was also silent on any changes to the indexation of transfer balance caps including the complex proportional indexation calculations, which will become increasingly more complex as transfer balance caps index over time.

In addition, despite lots of industry speculation in the lead up to the Budget, the Government failed to clarify whether it intends to modify the non-arm's length income rules to ensure the provisions operate as intended in relation to non-arm's length expenses and general fund expenses. Considering the ATO's current position outlined in PCG 2020/5 that it will not apply any compliance resources in relation to this issue until 1 July 2023, it is hoped that the Government will announce how it intends to deal with this issue prior to the end of this financial year.

Reduction in downsizer contribution eligibility age from 60 to 55

From start of first quarter after Bill receives Royal Assent

The eligibility age for clients to make downsizer contributions reduced from 65 to 60 on 1 July 2022. The Government has announced a further reduction to allow eligible clients aged 55 or over to make downsizer contributions.

While contained in the Budget, this proposal had already been announced prior to the May federal election. A Bill to implement this change is currently before parliament but it has not yet passed or become law.[1]

[1]Treasury Laws Amendment (2022 Measures No. 2) Bill 2022. Note that associated regulations to allow super funds to accept downsizer contributions from age 55 have already been registered (Superannuation Legislation Amendment (Broadening Contribution Rules) Regulations 2022), but will not commence until the start of first quarter after Bill receives Royal Assent.

Additional Comment

These changes will allow eligible couples aged 55-74[2] to contribute up to $1.26m to super in a single year by making both a non-concessional contribution of up to $330,000 each, and a downsizer contribution of up to $300,000 each.

Where a member wishes to contribute an amount that is within either the non-concessional cap or downsizer limit, an adviser will need to consider whether it is better to contribute the amount as a non-concessional contribution or downsizer contribution.

For example, if a member aged 55 has $300,000 from the sale of a home they want to contribute to super, they may be better off contributing it as a non-concessional contribution under the non-concessional contribution bring-forward rule rather than a downsizer contribution, as this would then preserve their ability to make a downsizer contribution in the future.

In addition, where a member aged 55 or over makes a downsizer contribution, they need to be aware that the contribution will be fully preserved and they will not be able to access the amount until they satisfy a condition of release, such as retirement after reaching their preservation age (currently age 59) or ceasing a gainful employment arrangement after reaching age 60.

[2]Including up to 28 days after the end of the month the member turns 75. Note – to access the bring forward rule the member will need to have been under 75 at some time during the year the contribution was made.

Taxation

Budget repair measures

From various dates

The Government announced a number of measures aimed at increasing tax receipts to help repair the Budget:

- Extending three existing ATO compliance programs:
  - Tax Avoidance Taskforce
  - Shadow Economy Program
  - Personal Income Taxation Compliance.
- Ensuring multinationals pay their fair share of tax, including:
  - limiting the amount of debt-related deductions multinationals can claim under the thin capitalisation regime
  - requiring relevant companies to enhance the tax information they disclose to the public from 1 July 2023
  - closing loopholes on payments from 1 July 2023 to related parties for intangibles held in low tax jurisdictions.

These measures are estimated to increase tax receipts by $4.7 billion over the next four years.

Electric car discount and fringe benefit tax exemption

Effective 1 July 2022

To deliver on its climate change commitments, the Government has introduced legislation[3] to exempt certain eligible electric vehicles from fringe benefits tax.

While included in the Budget, the Bill has already passed the House of Representatives and is currently before the Senate.

Proposal to remove FBT on certain eligible electric cars

Removing the FBT on eligible electric cars means that an employee can use their pre-tax salary (through a salary sacrifice arrangement) to fund the lease of a car for private use without having additional amounts deducted from their salary to fund the FBT rules.

A car benefit is an exempt fringe benefit (i.e. not subject to FBT) if:

[3]Treasury Laws Amendment (Electric Car Discount) Bill 2022.

- the car is a zero or low emission vehicle (i.e. battery electric vehicles, hydrogen fuel cell electric vehicles and plug-in hybrid electric vehicles)
- the car is first held and used on or after 1 July 2022, and
- the value of the car at the first retail sale (GST inclusive) was below the luxury car tax threshold for fuel efficient vehicles ($84,916 in 2022/23 tax year). In other words, if the luxury car tax is applicable, the car benefit cannot be an exempt fringe benefit and FBT is payable.

Additional Comment

In the related media release, the Government states that if a model valued at about $50,000 is provided by an employer, the new FBT exemption would save the employer up to $9,000 FBT a year. This means that an employee will save $9,000 pre-tax salary a year and if the employee is on the top marginal tax rate (i.e. 47%), the employee's additional take-home pay will be $4,770 [i.e. $9,000 x (1 – 47%)] a year. If the employee is on a lower marginal tax rate, the additional take-home pay would be even higher.

Reportable fringe benefits

Car fringe benefits that are exempt from FBT will continue to be included in calculating the employee's reportable fringe benefits amount for each FBT year in which the exempt benefit is provided. The reportable fringe benefits included in the employee's income statement or payment summary are required to be included in the individual's income tax return under the income test section. While this amount is not subject to income tax, it (or the adjusted fringe benefits value) can have flow-on impact on a range of tax, super and social security measures.

No announcement to change the legislated stage 3 tax cuts

Legislated measure to take effect on 1 July 2024

In the lead up to the Federal Budget, there was a lot of speculation about whether it would contain any changes to the 'stage 3' tax cuts which were legislated by the former Government and are due to take effect from 1 July 2024.

Under the legislated measure, from the 2024-25 income year, the 32.5% marginal tax rate will reduce to 30%. For a resident individual, the tax rate on their taxable income will be as follows:

From 2024-25 income year

Taxable income	Tax rate on this income
$18,200 to $45,000	19%
$45,001 to $200,000	30%
$200,001 and over	45%

No change to these tax cuts was announced by the Government in this Federal Budget. The effective date of the final stage of the personal income tax plan remains unchanged at this stage, although there are likely two further Budgets prior to their commencement.

Outstanding Australian residency test proposal

The former Government announced in the May 2021 Federal Budget a proposal to modernise the individual tax residency test rules based on the recommendations from the Board of Taxation.

Under that old announcement, the previous Government proposed to replace the primary test with a simple ‘bright line’ test which would result in a person who was physically present in Australia for 183 days or more in an income year being an Australian tax resident. The proposal would have meant that individuals who did not meet the proposed primary test would have been subject to secondary tests that depended on a combination of physical presence and measurable objective criteria.

The previous Government's proposal was never made law, and it was not mentioned in today’s Budget announcement.

The ATO has recently issued draft ruling TR 2022/D2 Income tax: residency tests for individuals which outlines the current residency test rules. It does not reflect the former Government’s proposal.

Paid Family and Domestic Violence Leave – small business assistance

Effective 1 July 2022

The Government has introduced new legislation[4] to provide 10 days of paid Family and Domestic Violence Leave. The Bill has passed the House of Representatives and is currently before the Senate.

The Government announced it will provide funding to support the development and delivery of education, technical advice and support services to help small business employers implement this new measure once it becomes law.

4The Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 20225

Social security

Lifting the income threshold for the Commonwealth Seniors Health Card

Effective 7 days after Royal Assent

As previously announced, the Government has proposed increasing the income threshold for the Commonwealth Seniors Health Card from $61,284 to $90,000 for singles and from $98,054 to $144,000 (combined) for couples.

Legislation implementing this measure is currently before Parliament. It was initially proposed to commence 20 September 2022. However, due to delays in passing the legislation, the commencement date is now proposed to be 7 days after the legislation receives Royal Assent.

Additional Comment

The Government estimates that approximately 50,000 additional older Australians will be eligible for the Commonwealth Seniors Health Card if the income thresholds are increased to $90,000 for singles and $144,000 for couples (combined).

For clients with account-based pensions that are deemed under the Commonwealth Seniors Health Card income test, the low deeming rates of 0.25% and 2.25% that are frozen until 30 June 2024 will also assist more clients to be eligible for the card.

Incentivising pensioners to downsize by extending the sale proceeds exemption

From 1 January 2023 or later

As previously announced, the Government has proposed an extension to the assets test exemption of principal home sale proceeds that are intended to be spent on purchasing a new home from 12 months to 24 months for social security income support recipients.

In addition, during the asset test exemption period, the Government will apply the lower deeming rate of 0.25% to the principal home sale proceeds.

This measure aims to reduce the financial impact on pensioners looking to downsize their homes in an effort to minimise the burden on older Australians and free up housing stock for younger families.

Legislation implementing this measure is currently before Parliament.

Additional Comment

Currently, when a pensioner (or other eligible income support recipient) intends to use the proceeds from selling their home to purchase or build another home, those proceeds are exempt from the social security assets test for up to 12 months. An additional 12-month extension is available in extenuating circumstances – such as building delays due to a natural disaster.

The new legislation will extend the assets test exemption to a maximum of 24 months with an additional 12- month extension available in extenuating circumstances. The intention of the legislation is to give income support recipients more time to purchase or build a new home before their payment is impacted.

Temporary increase to Work Bonus

From 2022-23

As previously announced, the Government will provide a once-off increase to the Work Bonus income bank of $4,000 for Age and Veteran Pensioners.

The temporary increase to the income bank will increase the amount pensioners can earn in 2022–23 from $7,800 to $11,800, before their pension is reduced.

Additional Comment

If legislated, this measure is aimed at encouraging people to work beyond Age Pension age to assist with the skills shortage.

Legislation implementing this measure in currently before Parliament with a proposed commencement date of 1 December 2022 and ending on 30 June 2023.

If implemented, pensioners over Age Pension age will be able to earn a substantial amount of employment income without impacting their pension entitlement.

For example, if they have already accrued $7,800 in their Work Bonus income bank and in December 2022 they receive an additional $4,000, then they will have $11,800 that they can use to offset employment income.

Increasing the Totally and Permanently Incapacitated Payment for Veterans

From 1 July 2022

The Government has announced an increase in the Special Rate of Disability Compensation Payment, Temporary Special Rate Payment and Special Rate Disability Pension of $1,000 per year.

Pandemic Support Payment extensions

From 15 October 2022

The Government has announced a new High Risk Settings Pandemic Payment to provide targeted financial support to workers in aged care, disability care, aboriginal healthcare and hospital care sectors.

This payment will be available from 15 October 2022 to workers in these sectors under the same basis as the Pandemic Leave Disaster Payment.

The Pandemic Leave Disaster Payment ended on 14 October 2022 when mandatory isolation requirements ended.

Child Care Support Package

From July 2023

Child Care Subsidy (CCS) rates will lift from 85% to 90% for families earning less than $80,000. CCS rates will then taper down one percentage point for each additional $5,000 in income until it reaches 0% for families earning $530,000 or more.

Families will continue to receive existing higher subsidy rates for the second and subsequent children aged five and under in care, up to 95%. The higher CCS rates will cease 26 weeks after the older child's last session of care, or when the child turns six years old.

The ACCC will be tasked to undertake a 12-month inquiry into the cost of child care and the Productivity Commission to conduct a comprehensive review of the child care sector.

Large child care providers will be required to report CCS-related revenue and profits in a bid to improve the transparency of the child care sector.

Additional Comment

According to the Budget papers, the increases in CCS rates will reduce out-of-pocket expenses for around 96% of families who use formal early child care services and no families should be worse off.

A family with a combined annual income of $120,000 with one child in centre-based day care for three days a week will be $1,780 better off in 2023-24.

Expanding Paid Parental Leave (PPL)

From 1 July 2023

Currently, the PPL scheme is comprised of two payments for eligible carers of a newborn or recently adopted child. PPL is available for up to 18 weeks for the birth parent, while Dad and Partner Pay is available for up to two weeks to fathers and partners.

From 1 July 2023, the Government will provide a total 20-week payment to families, including a portion reserved for each parent on a "use it or lose it" basis. Single parents will be able to access the full 20 weeks.

The Government will introduce reforms from 1 July 2023 to make PPL flexible for families. If they meet eligibility criteria:

- either parent is able to claim the payment, and
- both birth parents and non-birth parents with a newly adopted child are allowed to receive the payment.

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

To further increase flexibility, from July 2023 parents will be able to take Government-paid leave in blocks as small as a day at a time, with periods of work in between, so parents can use their weeks in a way that works best for them.

Eligibility will be expanded through the introduction of a $350,000 family income test, under which families can be assessed if they do not meet the individual income test currently set at $156,647.

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, increasing the overall length of PPL by six weeks.

Sole parents will be able to access the full 26 weeks.

Total PPL weeks

Financial year	2023-24	2024-25	2025-26	2026-27
Total PPL weeks	20	22	24	26

Aged care

From 2022/23 onwards

The Government will provide funding to reform the aged care system and respond to the Final Report of the Royal Commission into Aged Care Quality and Safety. The new measures will:

- make sure aged care residents have access to a registered nurse in every aged care facility on site, 24 hours a day, seven days a week
- enable every aged care resident to receive an average of 215 minutes of care per day
- ensure better food for aged care residents

- provide tailored support for older people with a disability
- increase access to culturally-safe care for First Nations Elders and older Australians from diverse communities
- limit the amount of home care that recipients can be charged in administration and management fees
- redesign in-home aged care to meet the changing needs of older Australians
- empower older Australians to make informed choices
- introduce stronger regulation and independent oversight to protect older Australians from neglectful practices.

Reforms for aged care workers are intended to:

- improve pathways for employment with a national registration scheme
- set clear expectations with a new Code of Conduct
- provide opportunities for training and support
- strengthen protections for people who report inappropriate practices.

Reforms impacting aged care providers include:

- fair pricing and funding arrangements for in-home and residential aged care
- funding to adjust to the Australian National Aged Care Classification (AN-ACC)
- more subsidies to meet increased nursing requirements
- greater transparency measures to create an open market where providers compete on quality of care
- establishing independent oversight to hold providers accountable.

Other changes

Improving housing supply and affordability

From 2024-25

The Government announced the National Housing Accord, a landmark agreement to address the supply and affordability of housing. The Accord will align for the first time the efforts of all levels of government, institutional investors and the construction sector to help tackle the nation's housing problem.

Under the Accord, the Australian Government is committing to deliver 10,000 affordable dwellings over five years, in addition to the 30,000 new social and affordable dwellings delivered through the Housing Australia Future Fund.

The shared ambition is to build one million new, well-located homes over five years from 2024.

The Government funding stream will help cover the gap between market rents and subsidised rents, and make more projects commercially viable. The Government has secured endorsement from institutional investors, including superannuation funds, for the Accord.

Other housing policy announcements include:

- Help to Buy shared equity scheme, which will assist homebuyers to purchase a new or existing home with an equity contribution from the Australian Government. This will mean eligible Australians can buy a home with a smaller deposit and smaller mortgage.
- Regional First Home Buyer Guarantee, which will bring home ownership into reach for Australians in regional areas. Starting 1 October 2022, 10,000 places are available each financial year to support regional first homebuyers to purchase new or existing homes with a deposit of as little as 5%.

Plan for cheaper medicines

From 1 January 2023

The Government will decrease the general patient co-payment for treatments on the Pharmaceutical Benefits Scheme from $42.50 to $30.00 on 1 January 2023.

If you have any questions or concerns, or would like to discuss your financial situation, please feel free to arrange an appointment by contacting us on (02) 6256 6000.

Kind Regards,

The Callaghans Team