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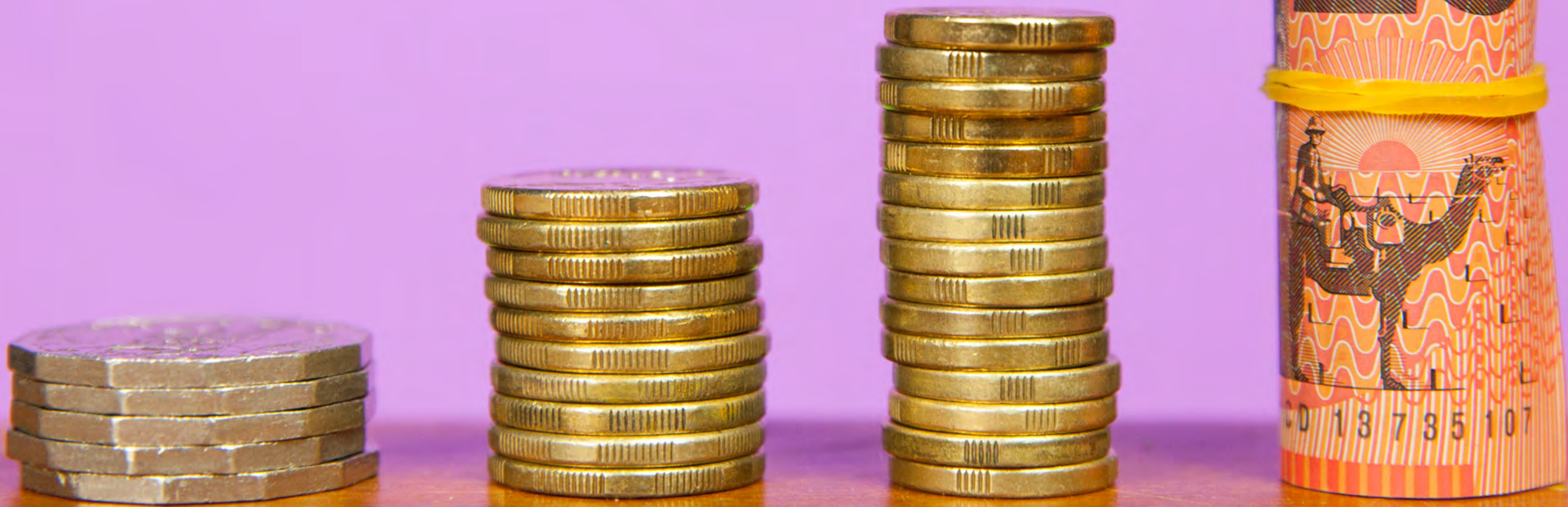
2022-23 FEDERAL BUDGET REPORT



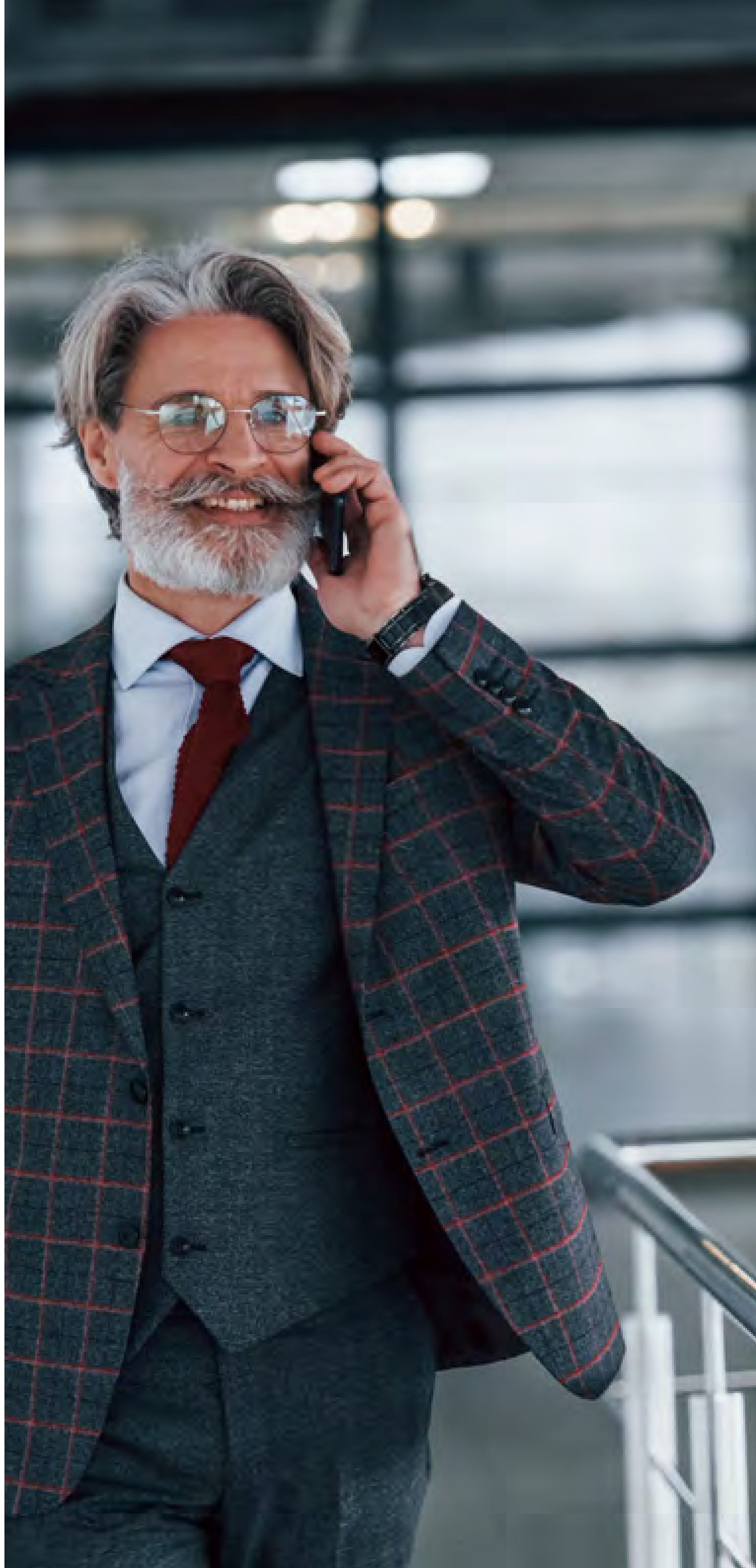
- **Adapted from BDO's 2022-23 Federal Budget Report**

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.



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.

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.

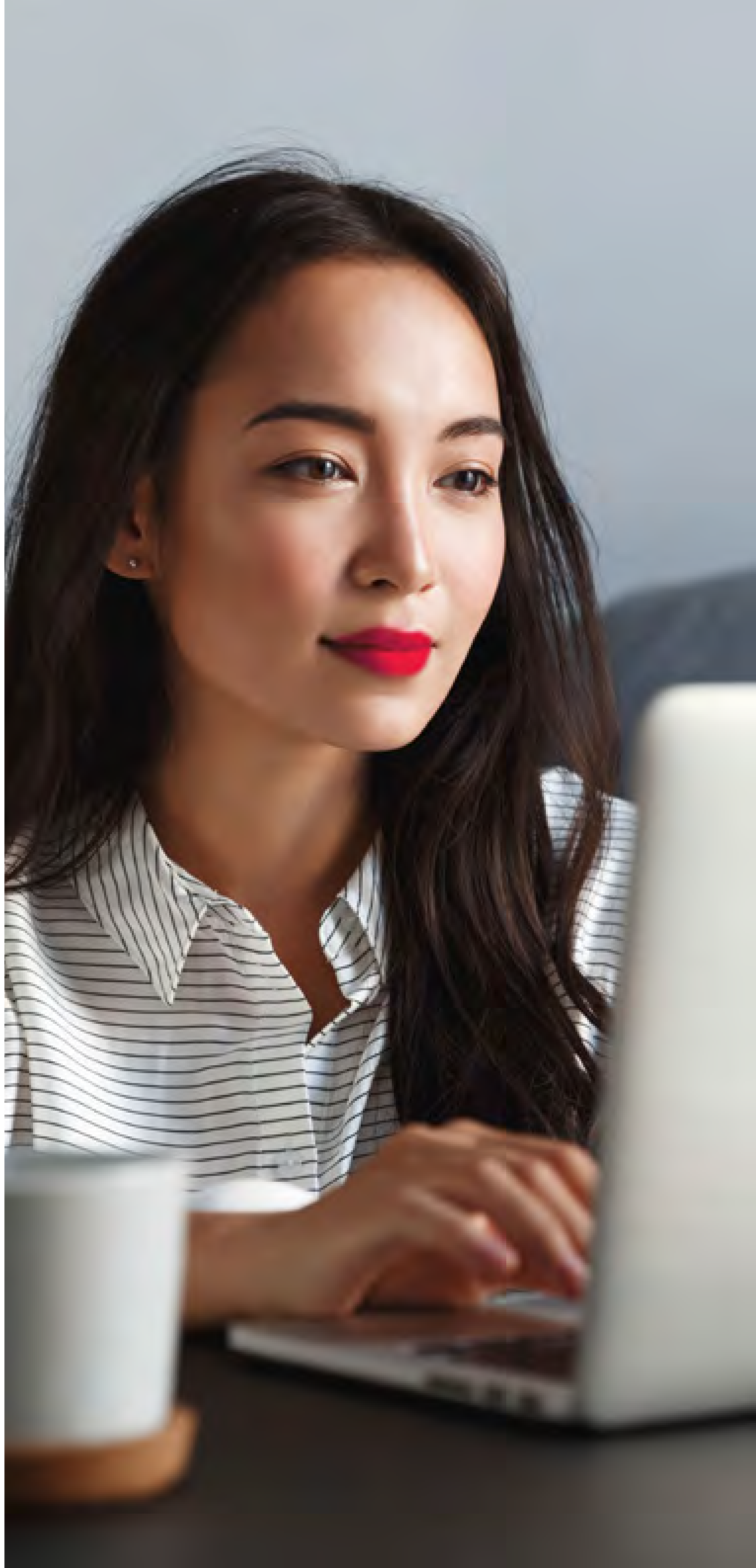
Broadly, all LMITO recipients will benefit from the increase, except those that do not require the full offset to reduce their tax liability to zero. All other features of the current LMITO remain unchanged. Consistent with the current LMITO, taxpayers with incomes of $126,000 or more will not receive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

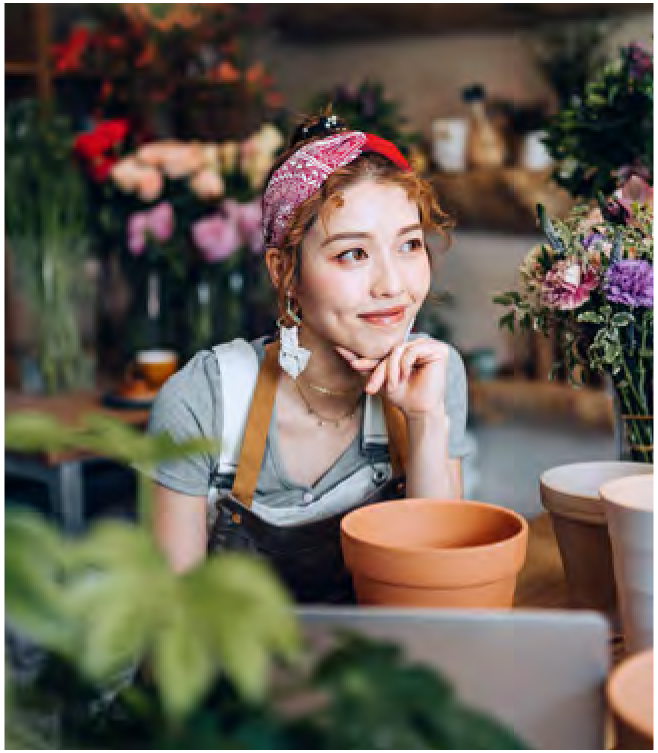
The $250 payments are exempt from taxation and will not count as income support for the purposes of any income support payment. A person can only receive one economic support payment, even if they are eligible under two or more categories.



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.



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.

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.

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.

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.

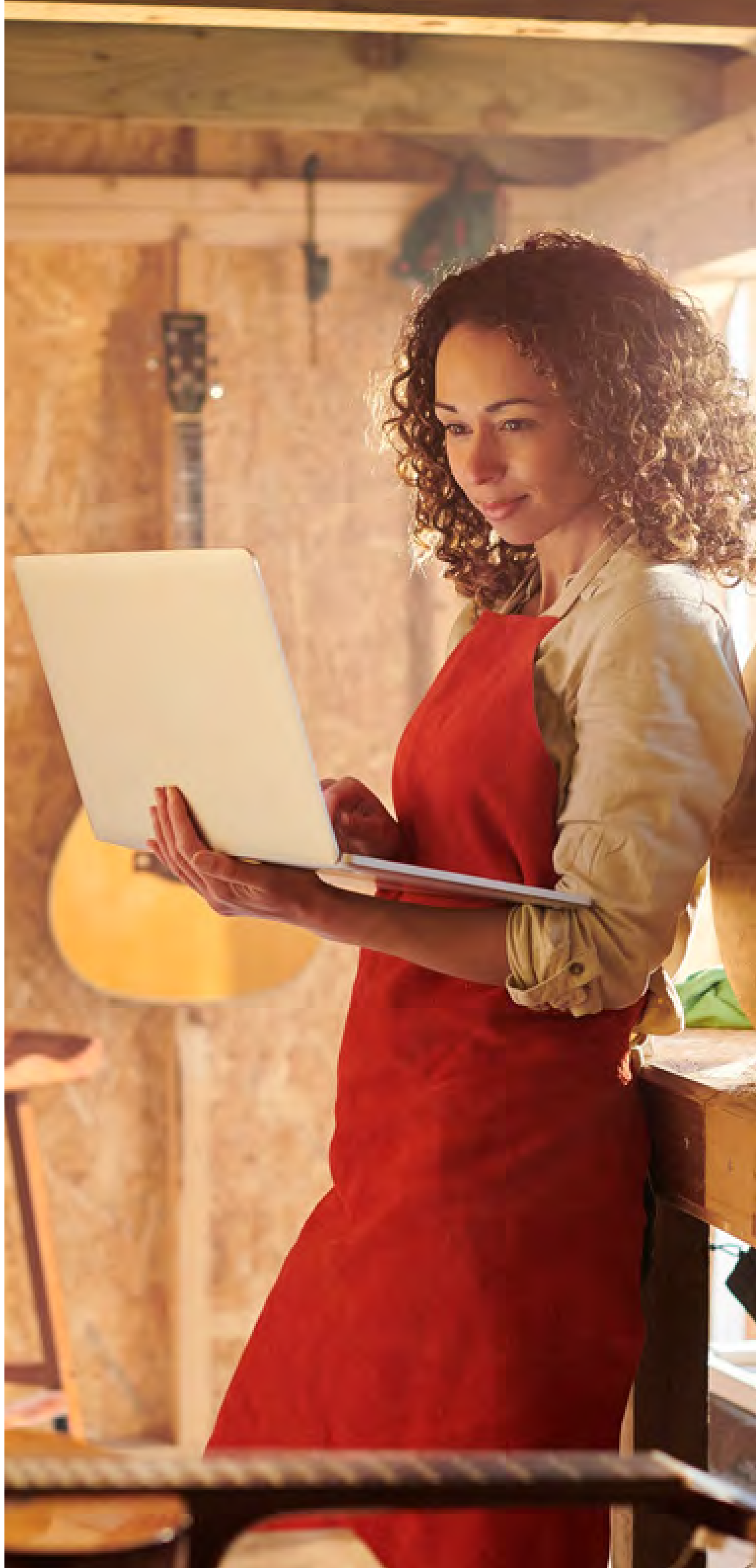
Expenditure incurred between 7.30pm (AEDT) on 29 March 2022 and 30 June 2022 will be eligible to have the boost claimed on the 2023 income tax return. Expenditure incurred between 1 July 2022 and 30 June 2024 will have the boost included in the income year where the expenditure was incurred.

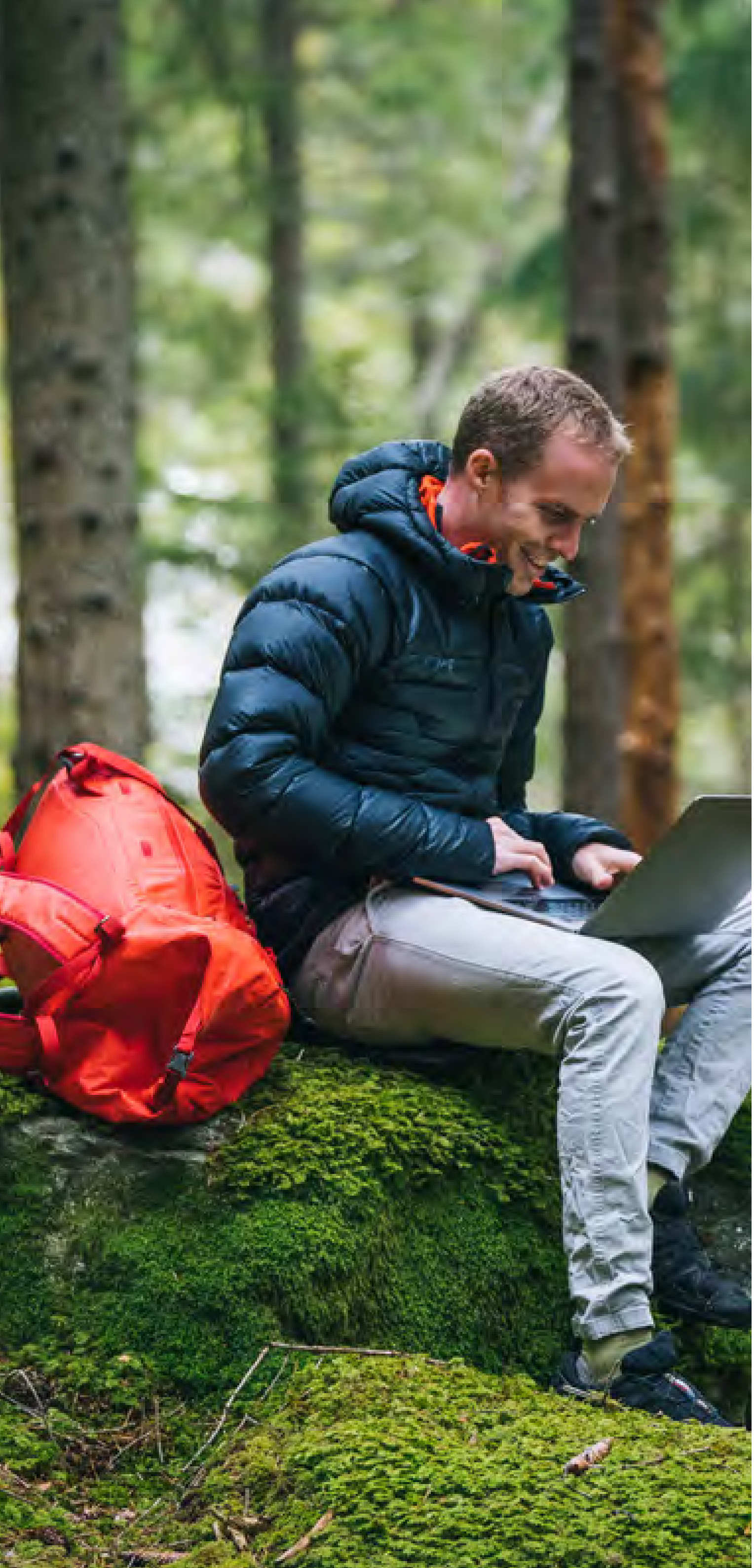
TECHNOLOGY INVESTMENT BOOST

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.





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.

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.

SMARTER REPORTING OF TAXABLE PAYMENTS

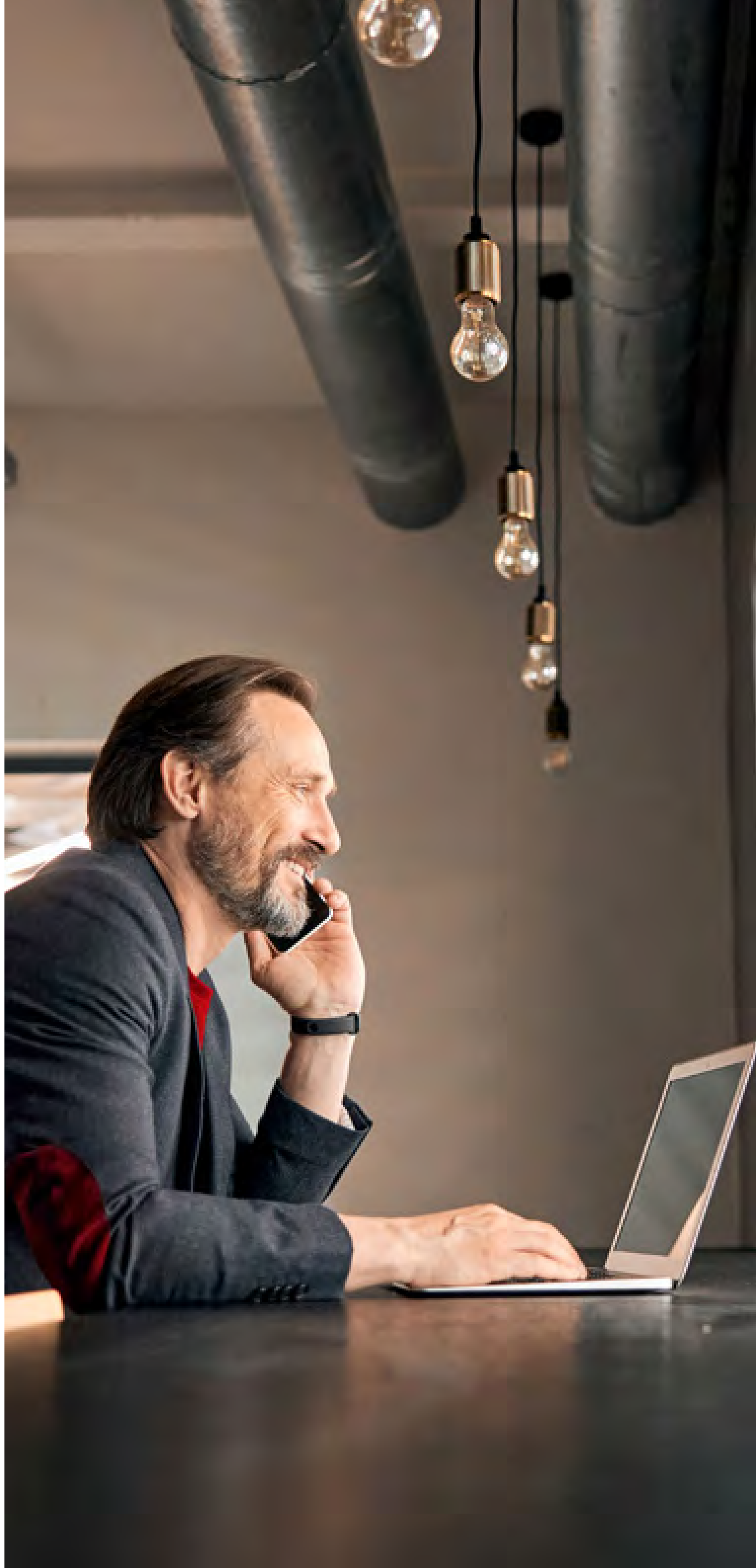
Many Australian businesses are currently required to complete a *Taxable payments annual report (TPAR)* by 28 August of each year. TPARs capture payments made to contractors for services provided to the business.

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.

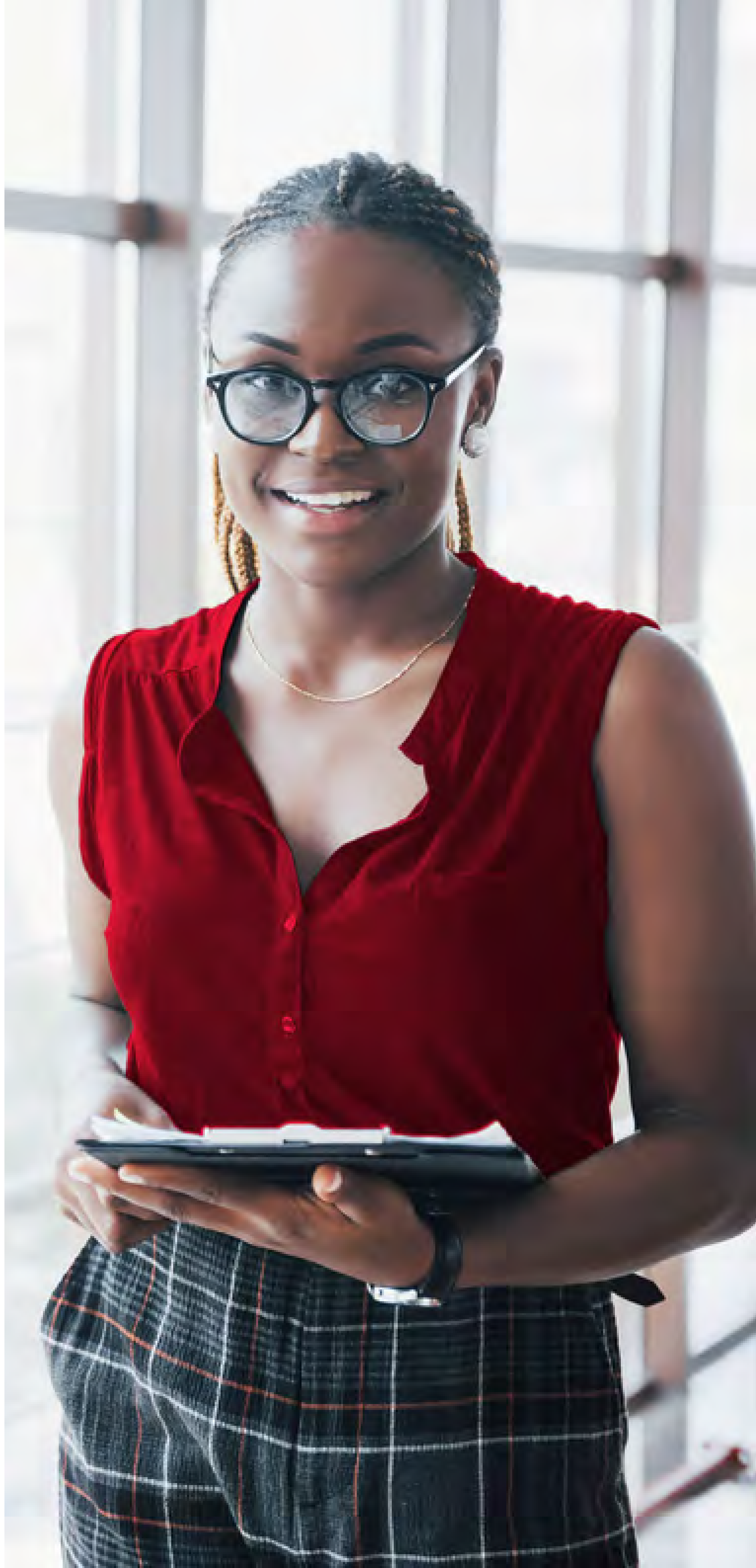


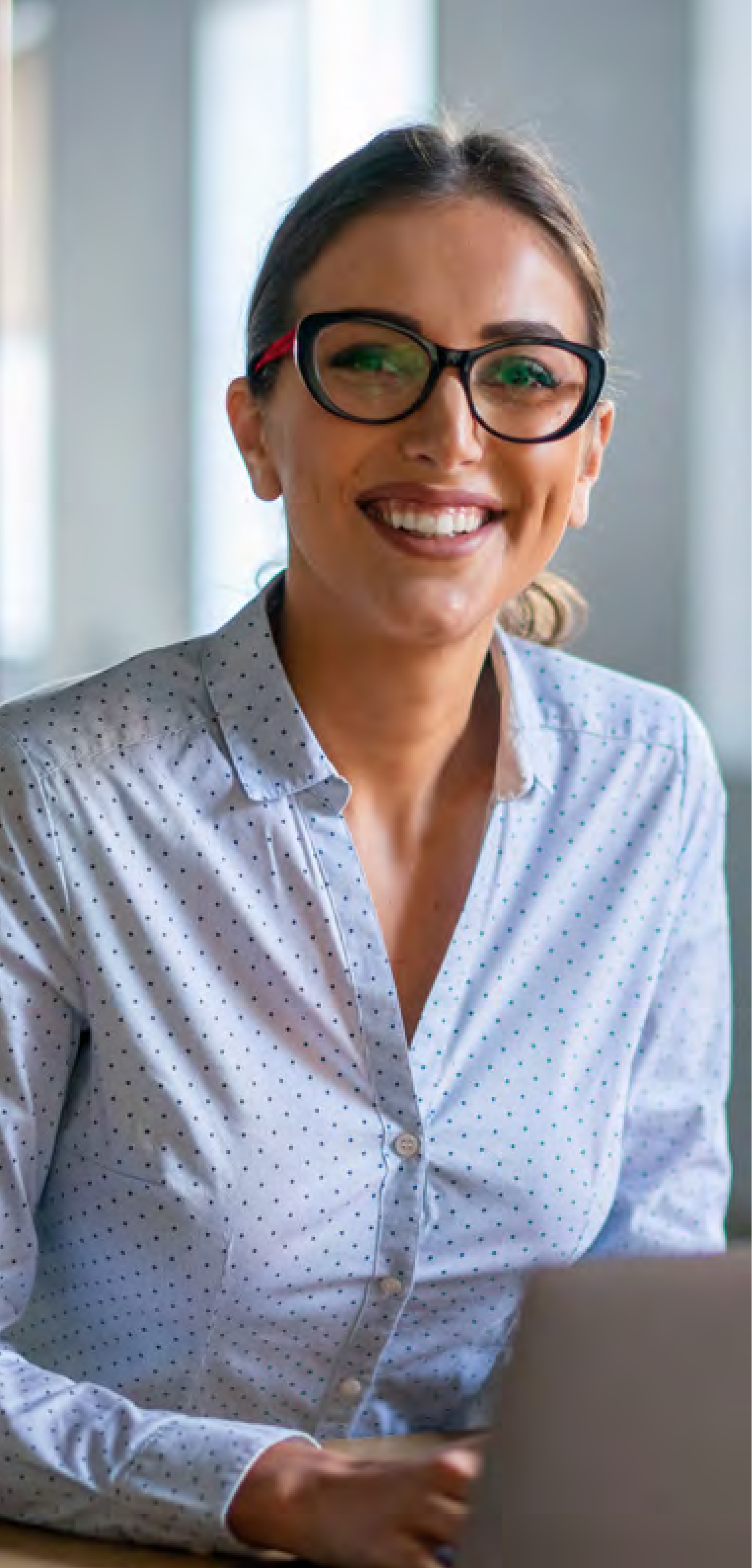
ENHANCED SHARING OF SINGLE TOUCH PAYROLL DATA

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.





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.

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.

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.

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.