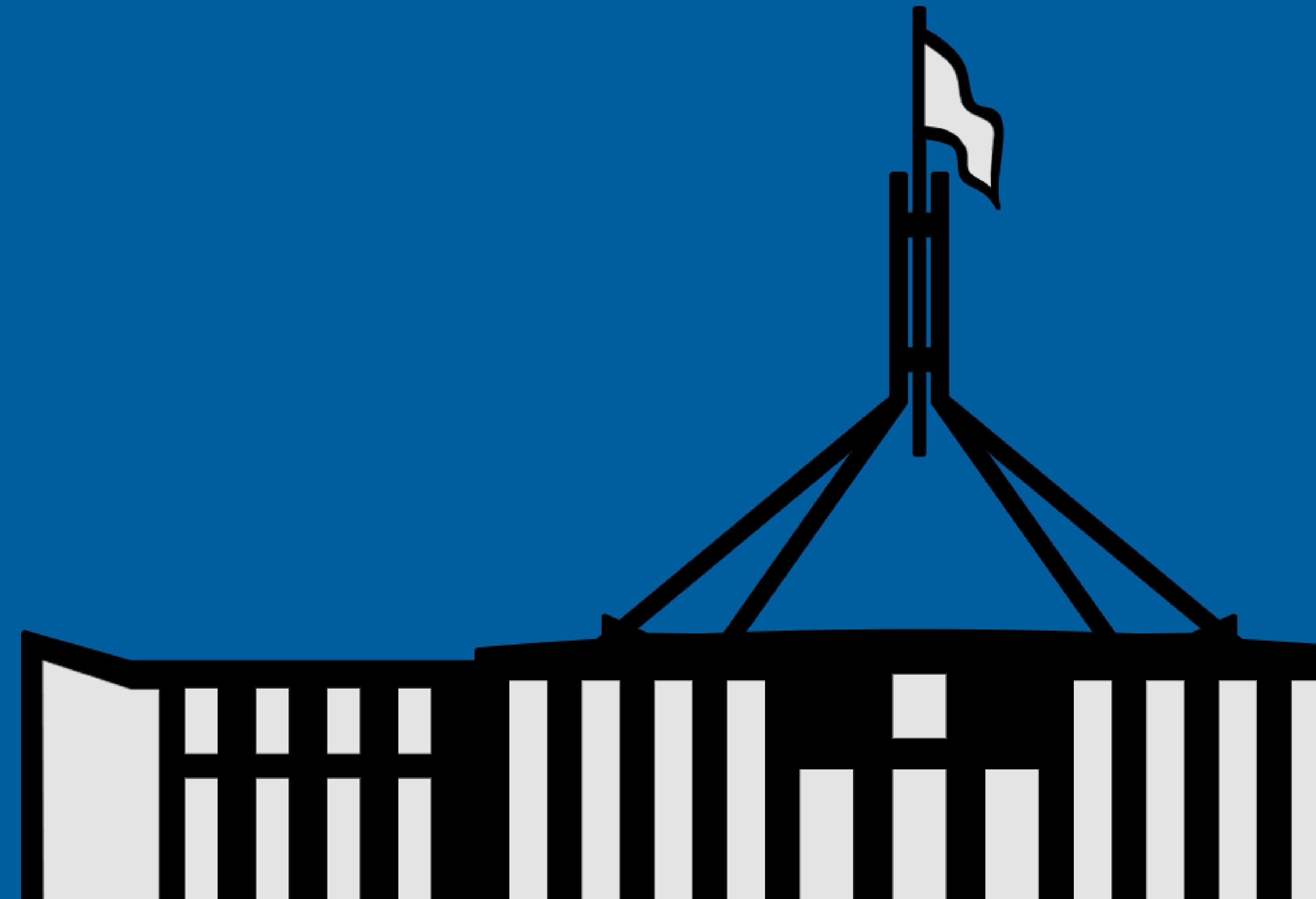
KELLY+ PARTNERS
CHARTERED ACCOUNTANTS

KELLY+PARTNERS BUDGET REPORT

Federal Budget 2021-22 Overview

The key takeaways for your personal finances, business and private wealth



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Overview

The 2021-22 Federal Budget is the second Federal Budget to be handed down during the COVID-19 pandemic and continues the Government's aim of supporting the economy and encouraging growth.

Unlike October's Federal Budget, no new large-scale, significant incentives are being introduced. However, to everyone's relief, successful programs introduced in last year's October Federal Budget have been continued, being the temporary full expensing and the loss-carry back measures.

Businesses are being encouraged to continue expenditure on assets to secure an immediate tax write-off for depreciable assets that would otherwise be subject to annual depreciation claims under the capital allowance rules. This measure together with the loss carry-back measure can result in some taxpayers securing refunds of prior year taxes!

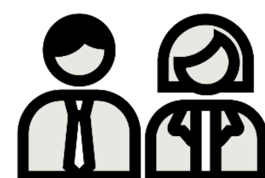
This Federal Budget also introduces new targeted changes to the tax system that aims to make Australia more attractive to non-residents, start-ups and new industries, such as:

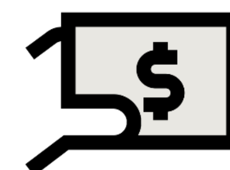
- modernising our tax residency rules;
- updating the employee share incentive rules;
- changing the tax depreciation rules for eligible intangibles assets such as patents;
- introducing a new patent box regime; and
- other incentives targeting the creative industries and digital games developers.

Changes to the Super regime were also a key focus of the Government in this year's budget.

Key Takeaways

The 5 key points of the Federal Budget 2021-22





Changes to superannuation

Super guarantee for all employees, regardless of earnings. First Home Super Saver Scheme increases from $30,000 to $50,000

Extended loss carry back and temporary full expensing

Extension of both measures until 30 June 2023

Simplified employee share schemes

Less red tape for unlisted companies providing incentives to employees

No changes to individual tax rates

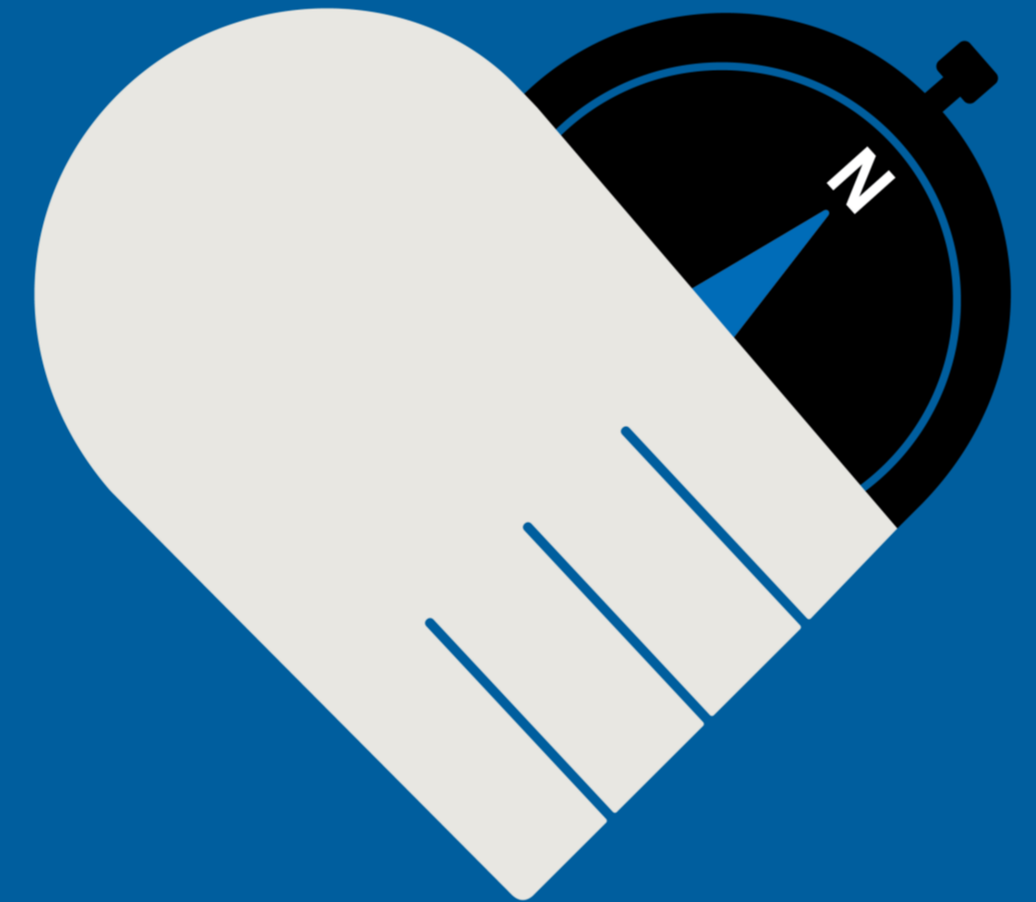
Low and Middle Income Tax Offset has been retained, providing savings of up to $1,080 per person and $2,160 per couple

Encouraging investment in Australia

New patent box for biomedical technology, depreciation for digital intangible assets, and simplifying definition of Australian tax resident

Personal Finances

Changes to personal income tax, residency rules, and Employee Share Schemes.



No changes to personal income tax rates

No changes in this budget, but planned tax cuts remain on track

The Government's Personal Income Plan was designed to lower personal taxation and was to be implemented in three stages. Stage 1 was implemented in June 2018, while Stage 2 commenced in 2021.

Stage 3 of the Government's Personal Income Tax Plan was designed to simplify and flatten the various income tax thresholds and to lower the marginal tax rate for most Australians to 30 per cent or less. This Stage 3 was not changed and remains in place for roll-out in 2024-25.

Tax rates and thresholds in 2021 compared with 2024-2025

Rate	**2020-21** From 2019-20 Budget	Rate	**2024-25** Previously announced
0%	Up to $18,200	**0%**	Up to $18,200
19%	$18,201 - $45,000	**19%**	$18,201 - $45,000
32.5%	$45,001 - $120,000	**30%**	$45,001 - $200,000
37%	$120,001 - $180,000		
45%	Above $180,000	**45%**	Above $200,000
LITO	Up to $445	**LITO**	Up to $700

Extension of tax offsets

Extension of tax offsets for Low and Middle Income-earners

The Federal Budget retains the Low and Middle Income-Earner Tax Offsets (LMITO) for another year, extending to the end of the 2021-22 income year.

A further $7.8 billion in personal income tax cuts will support low and middle income earners worth up to $1,080 for individuals or up to $2,160 for couples.

This is on top of the $25.1 billion of announced tax cuts flowing to households in 2021-22 under the Personal Income Tax (PIT) Plan.

Low and Middle Income-Earner Tax Offset	
Taxable income	LMITO
Less than $37,000	$255
$37,001 - $48,000	$255 + 7.5% of income exceeding $37,000
$48,001 - $90,000	$1,080
$90,001 - $126,000	$1,080 - 3% of income exceeding $90,000
More than $126,001	$nil

Modernising Australia's residency rules

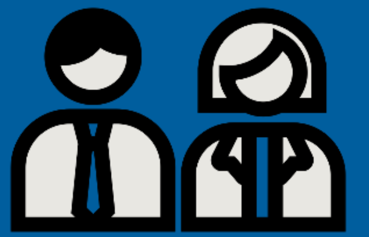
Tax residency rules are being simplified to two tests

The previous tax residency rules will be replaced with a new framework with two simple tests:

- **183-day test:** a person who is physically present in Australia for 183 days or more in any income year will be an Australian tax resident; and
- **Secondary test:** where the 183 day test does not apply, secondary tests that depend on a combination of physical presence and measurable, objective criteria will apply.

These new tests will commence in the tax year after Royal Assent, which is likely to be as from July 2022.

Changes to deferred taxing point for Employee Share Schemes (ESS)



Cessation of employment no longer a deferred taxing point

Recipients of shares and options under employee share schemes (ESS) are subject to income tax on either:

- An upfront basis – when the share or option is received; or
- Deferred basis – when a 'deferred taxing point' is triggered.

Under the existing rules, the deferred taxing point is the earliest of:

- Cessation of employment
- In the case of shares, when there is no risk of forfeiting the shares and no restriction on disposal
- In the case of options, when the employee exercises the option and there is no risk of forfeiting the resulting shares and no restriction on disposal
- 15 years

Under the proposed changes, cessation of employment will no longer be a deferred taxing point. This means that employees will no longer be taxed on shares / options that may be subject to ongoing restrictions when employment ceases.

Business Finances

Extension of temporary asset write-off and loss carry-back measures, the digital economy and patent box

Temporary asset write-off extended

Businesses can immediately deduct the cost of eligible depreciating assets until 30 June 2023

The 12-month extension will provide eligible businesses with additional time to access the incentive, encouraging them to make further investments, including in projects requiring longer planning times.

All other elements of temporary full expensing will remain unchanged.

From 1 July 2023, normal depreciation arrangements will apply.

Key requirements		
Turnover	**Asset acquisition and use**	**Cost**
• Available to businesses with turnover OR total income of **less than $5 billion**	• Asset must be **acquired after** 7.30pm on **6 October 2020** • Asset must be **used** or held ready for use **before 30 June 2023**	• Unlike the instant asset write-off, there is **no cost limit** for this deduction

Loss carry-back extended

Companies can carry back tax losses incurred in the 2020 to 2023 income years to offset previously taxed profits

The extension will allow eligible companies to **carry back (utilise) tax losses from the 2022–23** income year to offset previously taxed profits as far back as the 2018–19 income year.

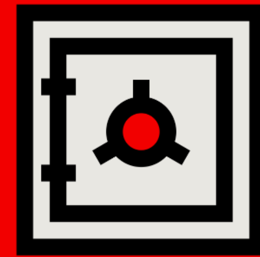
The offset is available in the 2021, 2022 and the 2023 income tax returns.

Limitations include:

- Losses carried back cannot exceed earlier taxed profits.
- The carry-back amount must not generate a franking account credit.
- The company must have lodged tax returns for the loss year and the previous 5 years.

Companies can elect whether or not to apply the loss carry back. Companies that do not elect to carry back losses under this measure can still carry losses forward as normal.

Patent Box Scheme



Taxing income derived from eligible Australian medical and biotech patents at 17%

Under the Patent Box Scheme, income derived from Australian medical and biotech patents that have been developed in Australia will be taxed at a concessional rate of 17%, down from the current rate of 30% for large businesses and 25% for SMEs.

This measure takes effect from 1 July 2022 and will be available for granted patents that are applied for after the budget announcement at 7:30pm on 11 May 2021.

The Scheme is intended to encourage investment in and retention of Australian medical and biotech patents.

The Government also announced that it will consult on whether a patent box would be an effective way of supporting the clean energy sector.

ATO debt recovery for small businesses

Small businesses can appeal to pause or modify ATO debt recovery actions under review

Small businesses (with turnover of under $10 million) will be able to pause or modify Australian Taxation Office (ATO) debt recovery actions in cases that are under review by the Administrative Appeal Tribunal (AAT). Debt recovery actions include recovery of the underlying debt, application of garnishee notices, and/or related penalties and interest.

Currently when a small business taxpayer has a dispute with the ATO, they can only pause or modify ATO debt recovery actions through the court system.

Small businesses will be able to apply to the new Small Business Taxation Division of the AAT, rather than the court system, to have ATO debt recovery actions paused until their underlying case is decided by the AAT.

Self-assessing intangible assets

People can now self-asses the effective life of intangible assets

Taxpayers will be able to self-asses the tax effective life of eligible intangible depreciating assets (e.g. patents, registered designs, copyrights, and in-house software). The measure is aimed at encouraging investment into the digital economy.

Taking effect from 1 July 2023 (at the inclusion of the temporary asset write-off regime), this will better align the tax life of an asset with the underlying economic benefits provided by the asset.

Private Wealth & Superannuation

Increased flexibility for super contributions, repealing the work test, changes to SMSF residency requirements, and more

Extending access to downsizer contributions

Reducing the eligibility age for downsizer contributions

From 1 July 2022, the minimum age for the downsizer contribution will be lowered from 65 to 60. This will allow Australians nearing retirement to make a one-off post-tax contribution of up to $300,000 (or $600,000 per couple) when they sell their family home that they have held for at least the last 10 years.

The measure is designed to make it more flexible for Australians to contribute to their superannuation savings, and may encourage people to downsize sooner and increase the supply of family homes.

Downsizer contributions do not count towards the member's concessional and non-concessional contributions caps, and they form part of the member's tax-free component.

Key requirements

- The home must be located in Australia and when sold be wholly or partially exempt from capital gains tax under the main residence exemption (or would be entitled if it had been purchased after 20 September 1985)
- The size of the contribution is limited to the sales proceeds and is only available for one dwelling
- The contribution is required to be made within 90 days of receiving the proceeds (usually settlement)
- The member must provide their super fund with the approved Form when making, or prior to making, the contribution

Repealing the work test

Repealing the work test for voluntary super contributions

From 1 July 2022, the work test requirement will be removed for individuals aged 67-74 to make non-concessional or salary sacrifice super contributions.

Individuals under age 75 will also be able to access the non-concessional bring forward arrangement, subject to meeting the relevant eligibility criteria (i.e. currently three times the annual non-concessional cap of $100,000 over a period of 3 years — $300,000). Bring forward eligibility is currently limited to age 65 with legislation yet to be passed to increase the age limit to 67.

The existing $1.6 million cap on lifetime superannuation contributions will continue to apply (increasing to $1.7 million from 1 July 2021). The annual concessional and non-concessional caps will also continue to apply.

Access to concessional personal deductible contributions for individuals aged 67-74 will still be subject to meeting the work test

Change to minimum super guarantee threshold

Removing the $450 per month threshold for superannuation guarantee eligibility

From 1 July 2022, the $450 per month minimum income threshold will be removed. Currently under the threshold, employees are not eligible to receive superannuation guarantee contributions from their employer (unless there is another super guarantee exemption that applies).

The Retirement Income Review estimated that around 300,000 individuals would receive additional superannuation guarantee contributions each month with this measure and that 63% of these would be women.

The removal of the minimum threshold will mean that changes will be needed to payroll systems for employers.

No change announced to the superannuation guarantee rate increases:

- **From 1 July 2021:** Increased from 9.5% to 10%
- **From 1 July 2022 until 1 July 2025:** Increased in increments of 0.5% per year
- **From 1 1 July 2025:** Rate will reach 12%.

Relaxing SMSF residency requirements

Relaxing residency requirements for SMSFs & small APRA funds

From 1 July 2022, the residency requirements for SMSFs and small APRA-regulated funds (SAFs) will be relaxed. The Central management and control test safe harbour will be extended from 2 years to 5 years for SMSFs and the active member test will be removed for both funds.

This will allow SMSF members to continue to make contributions to their SMSF while they are temporarily overseas. These proposed changes allow parity with members of large APRA-regulated funds and will provide SMSF and SAF members the flexibility to keep and continue to contribute to their preferred fund while undertaking overseas work and education opportunities.

Conversion of legacy income stream SMSF products

Retirees can exit from market-linked, life expectancy and lifetime products

Retirees will be provided with a temporary option to transition from legacy retirement products to more flexible and contemporary retirement products. Designed to simplify the retirement system, this measure will promote efficiency and reduce costs in the superannuation system.

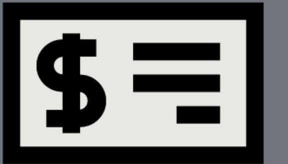
Currently, individuals are locked into certain products that restrict access to capital and flexibility of drawdowns, preventing them from effectively using their retirement savings for health, aged care, and other large expenses in retirement.

A two-year period will be provided for conversion of market-linked, life-expectancy and lifetime pension and annuity products. It will not be compulsory for individuals to take part.

Retirees with these products will be able to completely exit them by fully commuting the product and transferring the underlying capital, including any reserves, back into a superannuation fund account in the accumulation phase.

Commuted reserves will not be counted towards an individual's concessional contributions cap and will not trigger excess contributions. Instead they will be taxed as an assessable contribution of the fund (15% tax rate). Any existing social security treatment that applies to the legacy income streams will not transition over for those who opt for the conversion and the existing transfer balance cap limits will apply for individuals commuting and starting new income streams.

Improving the Pension Loans Scheme



Retirees will receive lump sum advance payments as part of the improved PLS

From 1 July 2022, the Government will introduce a No Negative Equity Guarantee for Pension Loan Schemes (PLS) and allow people access to a capped advance payment in the form of a lump sum. The maximum lump sum advance payment is equal to 50 per cent of the maximum Age Pension.

Based on current Age Pension rates, this is around $12,385 per year for singles, while couples combined could receive around $18,670.

A maximum of two advances totalling up to the cap amount are permitted in a year, for those who do not want to take an advance in one instalment.

A No Negative Equity Guarantee will mean that borrowers under the PLS, or their estate, will not owe more than the market value of their property, in the rare circumstances where their accrued PLS debt exceeds their property value.

The PLS is a voluntary, reverse mortgage type loan available to assist older Australians who wish to boost their retirement income by unlocking equity in their real estate assets. People can receive additional regular fortnightly payments with the payments accruing as a debt secured against their Australian property. The PLS allows a fortnightly loan of up to 150 per cent of the maximum rate of Age Pension and an interest rate, currently set as 4.5 per cent, is charged.

About Kelly+Partners

Kelly+Partners exists to help the people, businesses and communities serve be better off. With 16 offices across New South Wales, Victoria and Hong Kong, our team of over 280 people are dedicated to helping local business owners grow great businesses and lead healthier, wealthier and wiser lifestyles.

We are a B Corp Certified company, meaning that we do business as a force for good. We know that great businesses are built by great people working together for a higher purpose. At Kelly+Partners, we're dedicated to making a positive impact on our clients, team members and the local communities in which we operate.

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ANY QUESTIONS?

Get in touch

Phone Number
1300 932 584

Email Address
betteroff@kellypartners.com.au

Website
kellypartners.com.au