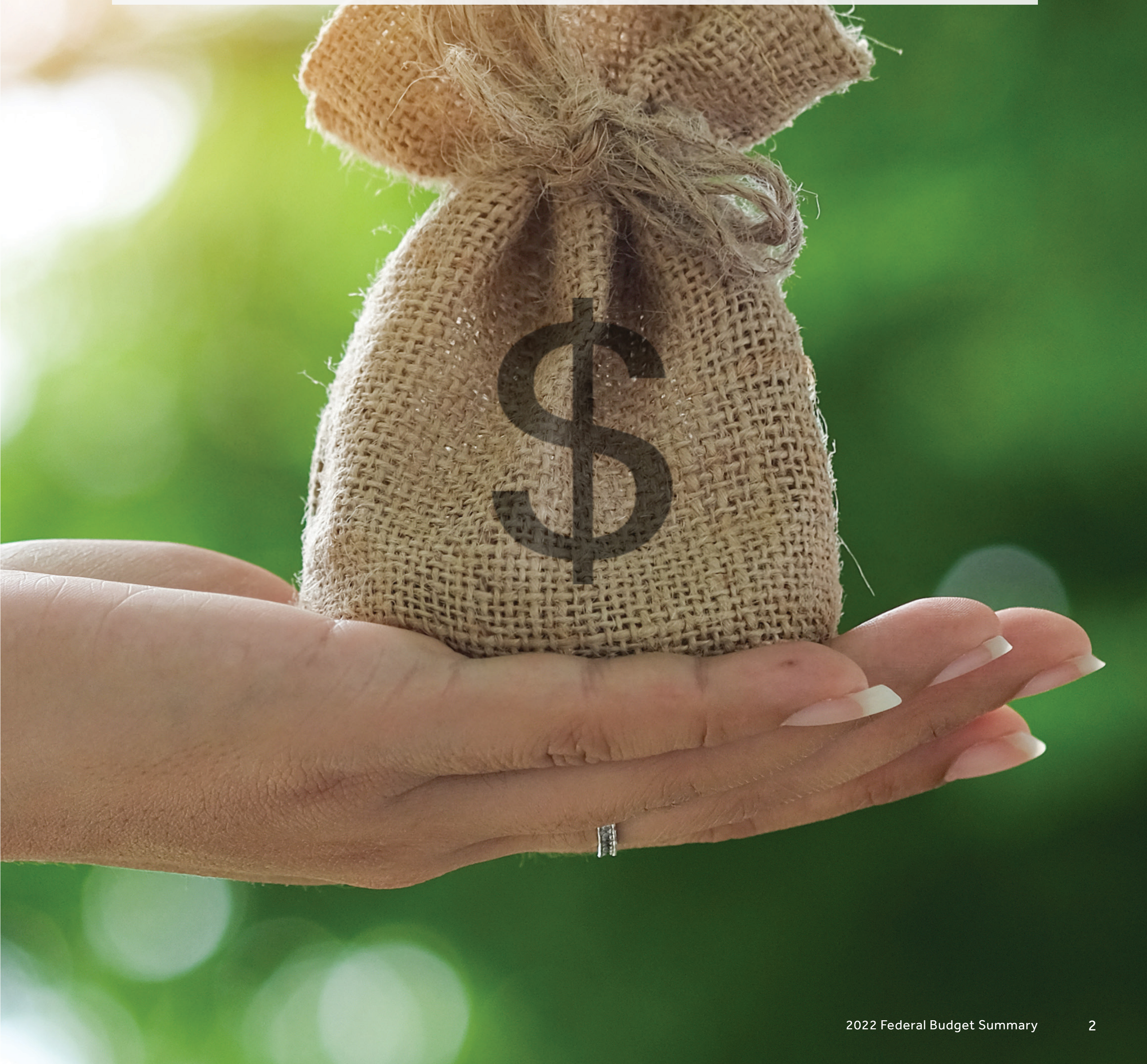
Nexia Australia

2022 Federal Budget Summary

The Albanese Government has sought to re-set the government's financial agenda with a "bread and butter" special Budget. Although an improved post-pandemic bottom line is forecast, many pandemic and global induced challenges remain.

The forecast deficit for the 2022-23 year is $36.9 billion, and the 2021-22 deficit came in at $32 billion. These are considerably lower than was forecast a mere seven months ago in the March 2022 Budget. However, the key economic challenges to highlight are inflation, low real wages growth, and low productivity growth, as well as recovering from floods in NSW, Victoria and Tasmania.

We set out a summary of the key measures announced, and what they mean for you.



Personal tax

1 No change to personal tax rates

The Government has left the previously legislated personal tax rate changes unchanged.

With no announcement of any changes to the personal tax rates, the Stage 3 tax changes will commence from 1 July 2024, as legislated. Under the Stage 3 tax changes, the 32.5% marginal tax rate will be reduced to 30% for the income bracket between $45,000 and $200,000. The 37% tax bracket will be completely removed from the 2024-25 income year.

This means that the following individual income tax rates will apply (excludes the 2% Medicare levy):

Tax rates and thresholds for 2022-23 (unchanged from 2021-22)	
Taxable income ($)	Tax payable ($)
0 - 18,200	Nil
18,201 - 45,000	Nil + 19% of excess over 18,200
45,001 - 120,000	5,092 + 32.5% of excess over 45,000
120,001 - 180,000	29,467 + 37% of excess over 120,000
180,001+	51,667 + 45% of excess over 180,000

Tax rates and thresholds from 2024-25 onwards (as legislated)	
Taxable income ($)	Tax payable ($)
0 - 18,200	Nil
18,201 - 45,000	Nil + 19% of excess over 18,200
45,001 - 200,000	5,092 + 30% of excess over 45,000
200,001+	51,592 + 45% of excess over 200,000

2 Low-and-middle-income tax offset not extended

Originally introduced in the 2019 Budget, the low-and-middle-income tax offset (LMITO) was previously extended to the 2021-22 income year as a temporary tax relief measure for individuals whose taxable income was below $126,000. For the year ended 30 June 2022, eligible individuals were entitled to a non-refundable tax offset of up to $1,500 ($3,000 for couples) upon lodgement of their individual income tax returns.

No further extension of the LMITO was announced in this Budget. As such, the LMITO has now ceased (with the 2021-22 income year being the final year), and now replaced by the low-income tax offset.

Low-income tax offset for 2022-23 and beyond (unchanged)	
Taxable income ($)	Amount of tax offset
$0 - $37,500	$700
$37,501 - $45,000	$700 - ([TI - $37,500] x 5%)
$45,001 - $66,667	$325 - ([TI - $45,000] x 1.5%)
$66,668 +	Nil

Business

1 Supporting small business owners' wellbeing

From 1 January 2023, the Government will provide $15.1 million to support the financial and mental wellbeing of small business owners. The Government will extend the mental health support and financial counselling programs, NewAccess for Small Business Owners and the Small Business Debt Helpline.

2 Depreciation of Intangible Depreciating Assets

The Government will not be proceeding with the announcement made in the 2021–22 Budget to allow taxpayers to self-assess the effective life of intangible depreciating assets.

This means that the effective lives of intangible depreciating assets will continue to be set by statute.

3 COVID-19 Business Grants Tax Exempt

Following COVID-19, payments from certain business grants from the Victorian and the Australian Capital Territory Governments that were made prior to 30 June 2022 can be classed as non-assessable, non-exempt (NANE) income for tax purposes.

This means that eligible businesses will be exempt from paying tax on these grants.

4 FBT and Import tariff exemption for electric cars

From 1 July 2022, the Government proposes to exempt battery, hydrogen fuel cell and plug-in hybrid electric cars from Fringe Benefits Tax and Import tariffs. The exemption will apply if the car's first retail price is below the luxury car tax threshold for fuel-efficient cars, being $84,916 (incl GST) for the 2022-23 financial year.

The electric car must not have been held or used before 1 July 2022. Employers will need to include exempt electric car fringe benefits in an employee's reportable fringe benefits amount. The enabling Bill has passed the House of Representatives, and is currently before the Senate.

Superannuation

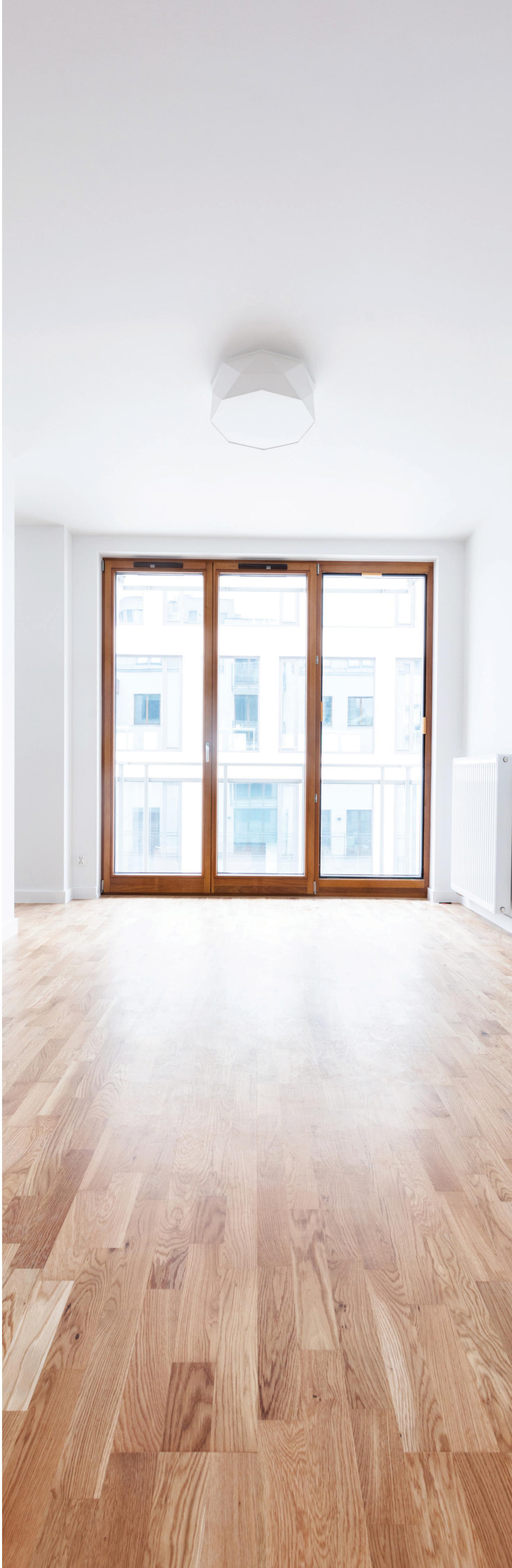
1 Superannuation downsizer contributions – greater access

You can sell your main residence and contribute up to $300,000 ($600,000 for a couple) of the sale proceeds into a complying superannuation fund as a downsizer contribution. Downsizer contributions are excluded from the normal contribution caps.

Currently you must be 60 years of age or older to make a downsizer contribution. This age limit will decrease to 55 years of age once the relevant legislation, which is currently before parliament, is passed.

Other conditions that need to be satisfied to make a downsizer contribution are:

- You, or spouse, must have owned the main residence for at least 10 years; and
- The contribution is made to the superannuation fund within 90 days of settlement.



International

1 Multinational Tax Integrity Package

Two integrity measures were announced to begin from 1 July 2023 relating to multinationals' use of intangibles and intellectual property.

Denial of deductions for payments for intangibles

Significant global entities (SGE) (entities within a group with group-wide global revenue of $1 billion or more) will be prevented from claiming tax deductions for payments made to related overseas parties in relation to intangible assets that are held in low- or no-tax jurisdictions.

For the purposes of this measure, low- or no-tax jurisdiction refers to jurisdictions with:

- a tax rate of less than 15% or
- a tax preferential patent box regime without sufficient economic substance.

Multinational tax transparency

The Government will introduce reporting requirements for certain entities to improve the quality of the tax information that they disclose to the public.

The Government will require:

- SGEs to prepare for public release certain tax information on a country by country basis, including a statement on their approach to taxation, for disclosure by the ATO;
- Listed and unlisted Australian public companies to disclose information on the number of subsidiaries and their country of tax domicile; and
- Tenderers for Australian Government contracts worth more than $200,000 to disclose their country of tax domicile (by supplying their ultimate head entity's country of tax residence).

2 Thin capitalisation

Fundamental reform is proposed to the thin capitalisation rules, with effect for income years commencing on or after 1 July 2023.

The thin capitalisation rules deny interest deductions to multinational or foreign-owned groups where one of three tests is not satisfied. The changes will shift the focus from the balance sheet to the income statement for the purposes of determining when debt deductions are excessive.

Safe harbour

Currently, the first test is a safe harbour amount where the entity does not exceed a debt/equity ratio of 1.5 to 1. This will be replaced by a safe harbour test where a company's debt-related deductions do not exceed 30% of EBITDA. However, deductions denied in an income year because the 30% threshold is exceeded will be able to be carried forward and used in the next 15 future income years where there is sufficient thin capitalisation capacity.

Arm's length debt test

The second test is the arm's length debt test, which will be restricted to require that the relevant debt is not only on arm's length terms and conditions but is also provided only by unrelated third parties. Deductions for related-party debt, even if on arm's length terms, would be denied if relying on this test is necessary. The Budget papers are silent on whether there will be grandfathering for existing funding arrangements.

Worldwide gearing test

The third test is the worldwide gearing test, which provides that debt deductions will not be denied to Australian entities in a multinational group where the indebtedness of the Australian entities is at a lower level than that of the multinational group as a whole. Currently, the relative indebtedness of the Australian entities and the multinational group as a whole are compared using debt/equity ratios. However, under the proposed new law the comparison will be done by comparing net interest expense as a share of earnings, similarly to the changes to the first test.

We note that there are special thin capitalisation rules for banks and other financial entities. It appears that these rules will not change.

Other issues

1 Digital Currencies Not Taxed As Foreign Currency

The Government will be introducing legislation to confirm that digital currencies will not be taxed as foreign currency. This maintains the current tax treatment of digital currencies, including under the capital gains tax rules where held as an investment.

This measure will not apply where digital currencies are issued by, or under the authority of, a government agency. In this situation, digital currencies will continue to be taxed as foreign currency.

2 Increased ATO Compliance Activity & Penalties

The Government has announced that the Australian Taxation Office (ATO) will extend compliance programs to further target non-compliance in three key areas:

- Personal income taxation, overclaiming of deductions and incorrect reporting of income;
- Businesses that operate in the Shadow Economy; and
- Tax avoidance by Multinationals, large public and private enterprises.

Penalties for tax offences will also increase from $222 to $275 per penalty unit, from 1 January 2023. This is an increase of 23.88%, well above inflation.

The message is clear – failure to comply with your tax obligations risks significant consequences.

Talk to your Nexia advisor today about obtaining tax audit insurance, which provides cover for our fees if you are selected for audit by the ATO.

3 Improving the integrity of off-market share buy-backs

Under current law, off-market share buy-backs include a deemed dividend component in the buy-back price.

This has been used by a range of large public companies to offer their shareholders the opportunity to sell their shares into an off-market buy-back at a discount to the current share price.

This is attractive to low-rate taxpayers, particularly superannuation funds, where the value of the refundable franking credits attached to the deemed dividend component outweighs the disadvantage of selling their shares at a discount.

The Government has announced that from Budget night, the tax treatment of off-market share buy-backs will be aligned with that of on-market share buy-backs. There is no deemed dividend component in the buy-back price for an on-market share buy-back. This means that the capital management initiative discussed above, which historically has been a popular strategy for superannuation funds, is no longer possible from Budget night, 25 October 2022.

4 Previously announced but unenacted tax and super measures – providing certainty

Several tax and superannuation-related measures announced by the previous Government, but never legislated, will be abandoned, including:

- The 2013-14 Mid-Year Economic and Fiscal Outlook (MYEFO) measure that proposed to amend the debt/equity rules;
- The 2018-19 measure that proposed changes to the annual audit requirement for certain self-managed superannuation funds (SMSFs); and
- The 2018-19 budget measure that proposed to introduce a $10,000 limit for cash payments to businesses for goods and services.

In addition, some previously announced measures will have a deferred start date, including:

- The 2021-22 budget measure that proposed a relaxation of the residency requirements for self-managed superannuation funds, which, if implemented, would extend the central management and control test safe harbour and remove the active member test. This was originally proposed to commence 1 July 2022, but will now apply to the income year commencing on or after the date of Royal Assent of the enabling legislation; and
- The 2019-20 MYEFO measures that proposed the introduction of a share economy reporting regime for ride sourcing and short-term accommodation (deferred until 1 July 2023) and all other reportable transactions such as asset sharing, food delivery and tasking-based services (deferred until 1 July 2024).

Final Word

Consistent with the Treasurer's description of this being a "bread and butter" Budget, policy announcements were measured, with a focus on re-setting the Government's spending priorities.

Hopefully, this sets the scene for a more ambitious reform agenda in six months' time with the May 2023 Budget.

Talk to your trusted Nexia advisor about what any of the Budget announcements mean for you or your business.

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