



Treasury Laws Amendment (2022 Measures No. 2) Act 2022

No. 84, 2022

**An Act to amend the law relating to taxation, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 84, 2022

An Act to amend the law relating to taxation, and for related purposes

[Assented to 12 December 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2022 Measures No. 2) Act 2022*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 12 December 2022 |
| 2. Schedules 1, 2 and 3 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. | 1 January 2023 |
| 3. Schedule 4 | The day after this Act receives the Royal Assent. | 13 December 2022 |
| 4. Schedule 5 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. | 1 January 2023 |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Assisting businesses to meet their record-keeping obligations

Part 1—Main amendments

Taxation Administration Act 1953

1 Paragraph 288-25(2)(b) in Schedule 1

Omit “expenses).”, substitute “expenses); or”.

2 After paragraph 288-25(2)(b) in Schedule 1

Insert:

- (c) if you are given a *tax-records education direction— documents to which a record-keeping failure specified in the direction relates, unless you have not complied with the direction.

Note 1: For paragraph (c):

- (a) for tax-records education directions, see section 384-12; and
(b) for whether you have complied with the direction, see subsection 384-15(3).

3 Section 288-25 (note) in Schedule 1

Omit “Note”, substitute “Note 2”.

4 Section 384-10 in Schedule 1 (heading)

Repeal the heading, substitute:

384-10 When a superannuation guarantee education direction may be given

5 Subsection 384-10(1) in Schedule 1

Omit “This section applies to you, and the Commissioner may give you an education direction under section 384-15,”, substitute “The Commissioner may give you a written direction (a *superannuation guarantee education direction*)”.

6 Subsection 384-10(1) in Schedule 1 (table items 2, 3 and 4)

Repeal the items, substitute:

- | | |
|---|--|
| 2 | You fail to comply with an obligation to give a statement or information to the Commissioner under the <i>Superannuation Guarantee (Administration) Act 1992</i> . |
| 3 | You fail to comply with an obligation to keep records under the <i>Superannuation Guarantee (Administration) Act 1992</i> . |
| 4 | You fail to comply with an obligation under this Act that relates to the <i>Superannuation Guarantee (Administration) Act 1992</i> . |

7 At the end of subsection 384-10(1) in Schedule 1

Add:

Note: For the requirements in the direction, see subsection 384-15(1).

8 Subsection 384-10(3) in Schedule 1

Repeal the subsection.

9 After section 384-10 in Schedule 1

Insert:

384-12 When a tax-records education direction may be given

- (1) The Commissioner may give you a written direction (a ***tax-records education direction***) if the Commissioner reasonably believes you have failed, at a specified time or for a specified period, to comply with one or more specified record-keeping obligations under a taxation law that:
- (a) is not set out in paragraph 288-25(2)(a) or (b); and
 - (b) is not the *Superannuation Guarantee (Administration) Act 1992*.

Note: For the requirements in the direction, see subsection 384-15(2).

- (2) However, the Commissioner must not give you a ^{*}tax-records education direction if the Commissioner reasonably believes:
- (a) you are disengaged from the tax system; or
 - (b) you are deliberately avoiding any of those obligations to keep records.

10 Section 384-15 in Schedule 1

Repeal the section, substitute:

384-15 Content of, and matters relating to compliance with, education directions

- (1) A *superannuation guarantee education direction, or a *tax-records education direction, given to you requires you to:
 - (a) ensure that any of the following individuals undertakes a specified approved course of education (see section 384-20):
 - (i) if you are an individual—you;
 - (ii) an individual who makes, or participates in making, decisions that affect the whole, or a substantial part, of your business; and
 - (b) provide the Commissioner with evidence that the individual has completed the course.
- (2) The direction must specify the period within which you must comply with the direction (which must be a period that is reasonable in the circumstances).

Note: The period may be affected by the operation of subsection 384-35(7).

- (3) You are taken to comply with the direction if, and only if:
 - (a) an individual referred to in paragraph (1)(a) undertakes the specified approved course of education during the specified period; and
 - (b) before the end of the specified period, you provide the Commissioner with evidence that the individual has completed the course.

Note 1: For a failure to comply with a superannuation guarantee education direction, see section 384-17.

Note 2: A failure to comply with a tax-records education direction will give rise to the administrative penalty set out in subsection 288-25(1).

384-17 Compliance with superannuation guarantee education directions

- (1) If you are given a *superannuation guarantee education direction, you must comply with it within the period specified in the direction.

Note: Failure to comply with this subsection is an offence against section 8C.

- (2) You are liable to an administrative penalty of 5 penalty units if you contravene subsection (1).

Note: Division 298 contains machinery provisions for administrative penalties.

11 Subsection 384-20(1) in Schedule 1

Omit “education directions”, substitute “*education directions”.

12 Section 384-30 in Schedule 1

Omit “education direction” (first occurring), substitute “*education direction”.

13 Subsection 384-35(1) in Schedule 1

Omit “education direction”, substitute “*education direction”.

14 Subsection 384-35(7) in Schedule 1

Omit “subsection 384-15(3)”, substitute “when you must comply with the direction”.

15 Paragraph 384-40(a) in Schedule 1

Omit “education direction”, substitute “*education direction”.

Part 2—Other amendments

Income Tax Assessment Act 1997

16 Subsection 995-1(1)

Insert:

education direction means:

- (a) a *superannuation guarantee education direction; or
- (b) a *tax-records education direction.

superannuation guarantee education direction means a direction given under subsection 384-10(1) in Schedule 1 to the *Taxation Administration Act 1953*.

tax-records education direction means a direction given under subsection 384-12(1) in Schedule 1 to the *Taxation Administration Act 1953*.

Taxation Administration Act 1953

17 Paragraph 8C(1)(fa)

Omit “an education direction in accordance with subsection 384-15(3) in Schedule 1”, substitute “a superannuation guarantee education direction in accordance with subsection 384-17(1) in Schedule 1”.

18 Paragraph 298-5(c) in Schedule 1

Omit “384-15”, substitute “384-17”.

Part 3—Application and transitional provisions

19 Application of amendments

- (1) The Commissioner may only give a direction under subsection 384-12(1) in Schedule 1 to the *Taxation Administration Act 1953* (as inserted by this Schedule) on or after the day (the **start day**) after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.
- (2) Such a direction may relate to a failure to comply with a record-keeping obligation arising before the start day (including a record-keeping obligation arising before the day this Act receives the Royal Assent).

20 Transitional—existing education directions

An education direction that:

- (a) is given under subsection 384-15(1) in Schedule 1 to the *Taxation Administration Act 1953*; and
- (b) is in force immediately before the commencement of this Schedule;

continues in force (and may be dealt with) as if it had been given under subsection 384-10(1) in Schedule 1 to that Act as amended by this Schedule.

Schedule 2—Sharing economy reporting regime

Taxation Administration Act 1953

1 Section 396-55 in Schedule 1 (at the end of the table)

Add:

- | | | |
|----|---|--|
| 15 | an operator of an electronic distribution platform (within the meaning of the *GST Act, but disregarding paragraph 84-70(1)(c) of that Act) | <p>the provision of consideration (within the meaning of the GST Act) by an entity to another entity (the <i>supplier</i>) wholly or partly for a *supply made by the supplier through the electronic distribution platform, if:</p> <p>(a) the supply is connected with the indirect tax zone (within the meaning of the GST Act), or would be connected with the indirect tax zone (within the meaning of the GST Act) if the definition of <i>indirect tax zone</i> in the GST Act included the external Territories; and</p> <p>(b) no amount is required by Division 12 to be withheld from the payment of the consideration; and</p> <p>(c) the operator and the supplier are not *members of the same *consolidated group or *MEC group; and</p> <p>(d) the supply is not any of the following:</p> <ul style="list-style-type: none"> (i) a supply by way of transfer of ownership of goods (within the meaning of the GST Act); (ii) a supply by way of transfer of ownership of real property (within the meaning of the GST Act); (iii) a financial supply (within the meaning of the GST Act) |
|----|---|--|

2 Application of amendment

The amendment made by this Schedule applies in relation to transactions entered into on or after:

Schedule 2 Sharing economy reporting regime

- (a) for a transaction relating to a supply of taxi travel (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*)—1 July 2023; or
- (b) for a transaction relating to a supply of short-term accommodation—1 July 2023; or
- (c) in any other case—1 July 2024.

Schedule 3—Removing the self-education expenses threshold

Fringe Benefits Tax Assessment Act 1986

1 Paragraph 19(1)(b)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

2 Paragraph 19(1)(b)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

3 Paragraph 19(1)(ba) (subparagraph (ii) of the definition of RD)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable as a once-only deduction to the recipient under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*”, substitute “Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable as a once-only deduction to the recipient under that Act or the *Income Tax Assessment Act 1936*”.

4 Paragraph 24(1)(b)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

5 Paragraph 24(1)(b)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

6 Paragraph 24(1)(ba) (subparagraph (ii) of the definition of RD)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

7 Paragraph 24(1)(ba) (subparagraph (ii) of the definition of RD)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

8 Paragraph 37(b)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

9 Paragraph 37(c) (subparagraph (ii) of the definition of *RD*)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

10 Paragraph 44(1)(b)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

11 Paragraph 44(1)(b)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

12 Paragraph 44(1)(ba) (subparagraph (ii) of the definition of *RD*)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

13 Paragraph 44(1)(ba) (subparagraph (ii) of the definition of *RD*)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

14 Paragraph 52(1)(b)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

15 Paragraph 52(1)(b)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

16 Paragraph 52(1)(ba) (subparagraph (ii) of the definition of *RD*)

Omit “section 82A of the *Income Tax Assessment Act 1936*, and”.

17 Paragraph 52(1)(ba) (subparagraph (ii) of the definition of *RD*)

Omit “either of those Acts”, substitute “that Act or the *Income Tax Assessment Act 1936*”.

Income Tax Assessment Act 1936

18 Paragraph 21A(3)(b)

Omit “section 82A, and”.

19 Paragraph 21A(3)(b)

Omit “of this Act,”.

20 Paragraph 26AJ(2)(b)

Omit “section 82A, and”.

21 Paragraph 26AJ(2)(b)

Omit “of this Act,”.

22 Paragraph 26AJ(2)(d) (definition of *Reducing amount*)

Omit “section 82A, and”.

23 Paragraph 26AJ(2)(d) (definition of *Reducing amount*)

Omit “of this Act,”.

24 Paragraph 26AJ(3)(b)

Omit “section 82A, and”.

25 Paragraph 26AJ(3)(b)

Omit “of this Act,”.

26 Section 82A

Repeal the section.

27 Subsection 109CA(5)

Omit all the words after “expenditure,”, substitute “ignoring Divisions 28 (Car expenses) and 900 (Substantiation rules) of the *Income Tax Assessment Act 1997*”.

Income Tax Assessment Act 1997

28 Section 12-5 (table item headed “education expenses”)

Omit:
limit on deduction 82A

29 Section 12-5 (table item headed “overseas debtors repayment levy”)

Omit:
limit on deduction 82A

30 Section 12-5 (table item headed “student start-up loans”)

Omit:
limit on deduction 82A

31 Section 12-5 (table item headed “trade support loan”)

Omit:
limit on deduction 82A

32 Section 12-5 (table item headed “VET student loans”)

Omit:
limit on deduction 82A

33 Application of amendments

- (1) The amendments of the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* made by this Schedule apply to assessments for the 2022-23 income year and later income years.
- (2) The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply to the FBT year starting on 1 April 2023 and to later FBT years.

Schedule 4—Increased Tribunal powers for small business tax decisions

Taxation Administration Act 1953

1 Section 14ZQ

Insert:

small business taxation assessment decision means a taxation decision that is:

- (a) an assessment of tax-related liabilities (as defined in section 255-1 in Schedule 1) relating in whole or in part to carrying on a business; and
- (b) made in relation to a small business entity (within the meaning of the *Income Tax Assessment Act 1997*).

2 At the end of section 14ZZB

Add:

- (3) However, despite subsection (1), section 41 of the AAT Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision, subject to the modifications set out in section 14ZZH.

3 After section 14ZZG

Insert:

14ZZH Modification of section 41 of the AAT Act

Section 41 of the AAT Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision as if the following subsection were inserted after subsection (3):

- “(3A) The Tribunal must not make an order under subsection (2), or an order varying or revoking an order in force under subsection (2), unless:

- (a) the proceeding before the Tribunal is in the Small Business Taxation Division of the Tribunal; and
- (b) if the party requesting the order is not the Commissioner of Taxation—the party satisfies the Tribunal that, when considered in the context of both the particular circumstances of the decision under review and the overall taxation system, the application for review and the request for making the order are not frivolous, vexatious, misconceived, lacking in substance or otherwise intended to unduly impede, prejudice or restrict the proper administration or operation of a taxation law.

Note 1: The kind of orders that the Tribunal may make under this section as modified by section 14ZZH of the *Taxation Administration Act 1953* include the following:

- (a) an order directing the Commissioner not to sue in a court to recover a specified amount relating to the reviewable objection decision (see subsection 255-5(2) in Schedule 1 to the *Taxation Administration Act 1953*);
- (b) an order directing the Commissioner to offer or accept payment of a liability relating to the reviewable objection decision by instalments under a specified arrangement (see section 255-15 in Schedule 1 to the *Taxation Administration Act 1953*);
- (c) an order directing the Commissioner not to issue one or more written notices to specified third parties who owe or may later owe money to the applicant as a means of recovering a liability relating to the reviewable objection decision (see section 260-5 in Schedule 1 to the *Taxation Administration Act 1953*).

Note 2: However, an order that would materially and permanently alter the decision under review would not be an order staying or otherwise affecting the operation or implementation of such a decision for the purpose of securing the effectiveness of the hearing and determination of the application for review. For example:

- (a) an order directing the Commissioner to defer the time at which a tax liability becomes due and payable; or
- (b) an order directing the Commissioner to remit the imposition of interest charges on unpaid liabilities that are due and payable.”.

4 Section 14ZZM

Before “The”, insert “(1)”.

5 At the end of section 14ZZM

Add:

- (2) However, the application of subsection (1) in relation to a small business taxation assessment decision is subject to any order made under section 41 of the AAT Act (as modified by section 14ZZH of this Act) in relation to the decision.

6 Application

The amendments made by this Schedule apply in relation to applications for review made on or after the commencement of this Schedule.

Schedule 5—Expanding eligibility for downsizer contributions

Income Tax Assessment Act 1997

1 Paragraph 292-102(1)(a)

Omit “60”, substitute “55”.

2 Application of amendment

The amendment made by this Schedule applies in relation to contributions made on or after the commencement of this Schedule.

*[Minister’s second reading speech made in—
House of Representatives on 3 August 2022
Senate on 26 September 2022]*

(64/22)
