



Treasury Laws Amendment (2023 Measures No. 2) Act 2023

No. 28, 2023

**An Act to amend the law relating to taxation and
housing, and to amend the *Commonwealth Banks
Act 1959*, 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. 28, 2023

An Act to amend the law relating to taxation and housing, and to amend the *Commonwealth Banks Act 1959*, and for related purposes

[Assented to 23 June 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2023 Measures No. 2) Act 2023*.

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.	23 June 2023
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	24 June 2023
3. Schedule 3	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2023
4. Schedule 4, Part 1	The day after this Act receives the Royal Assent.	24 June 2023
5. Schedule 4, Part 2	1 July 2028.	1 July 2028
6. Schedule 5	The later of: (a) 1 July 2023; and (b) the day after this Act receives the Royal Assent.	1 July 2023 (paragraph (a) applies)
7. Schedule 6	The day after this Act receives the Royal Assent.	24 June 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Medicare levy and Medicare levy surcharge income thresholds

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

1 Paragraphs 15(1)(c) and 16(2)(c)

Omit “\$23,365”, substitute “\$24,276”.

Medicare Levy Act 1986

2 Subsection 3(1) (paragraph (a) of the definition of *phase-in limit*)

Omit “\$46,156”, substitute “\$47,956”.

3 Subsection 3(1) (paragraph (c) of the definition of *phase-in limit*)

Omit “\$29,206”, substitute “\$30,345”.

4 Subsection 3(1) (paragraph (a) of the definition of *threshold amount*)

Omit “\$36,925”, substitute “\$38,365”.

5 Subsection 3(1) (paragraph (c) of the definition of *threshold amount*)

Omit “\$23,365”, substitute “\$24,276”.

6 Subsection 8(5) (definition of *family income threshold*)

Omit “\$39,402”, substitute “\$40,939”.

7 Subsection 8(5) (definition of *family income threshold*)

Omit “\$3,619”, substitute “\$3,760”.

8 Subsections 8(6) and (7)

Omit “\$39,402”, substitute “\$40,939”.

9 Subsection 8(7)

Omit “\$51,401”, substitute “\$53,406”.

10 Paragraph 8D(3)(c)

Omit “\$23,365”, substitute “\$24,276”.

11 Subparagraph 8D(4)(a)(ii)

Omit “\$23,365”, substitute “\$24,276”.

12 Paragraph 8G(2)(c)

Omit “\$23,365”, substitute “\$24,276”.

13 Subparagraph 8G(3)(a)(ii)

Omit “\$23,365”, substitute “\$24,276”.

14 Application of amendments

The amendments made by this Schedule apply to assessments for the 2022-23 year of income and later years of income.

Schedule 2—Maintaining the Commonwealth Bank superannuation fund guarantee

Commonwealth Banks Act 1959

1 After subsection 117(3)

Insert:

(3A) If:

- (a) immediately before the day (the **commencement day**) that Schedule 1 to the *Treasury Laws Amendment (2023 Measures No. 2) Act 2023* commences a person holds an interest in the superannuation fund; and
- (b) immediately before the commencement day the Commonwealth guarantees under subsection (3) the due payment of any amount in respect of the person; and
- (c) on or after the commencement day:
 - (i) the interest is transferred from the superannuation fund to a successor fund (within the meaning of the *Income Tax Assessment Act 1997*); and
 - (ii) the successor fund is a regulated superannuation fund;

then, so long as the person continues to hold an interest in the successor fund, the Commonwealth guarantees the due payment of any amount that is payable to or from the successor fund, by the trustee of the successor fund or by the Commonwealth Bank, in respect of the person.

- (3B) Disregard subsection (3) when determining whether a regulated superannuation fund confers on a person equivalent rights in respect of an interest to the rights they had under another regulated superannuation fund in respect of the interest for the purposes of any law of the Commonwealth dealing with successor funds.

2 Subsection 117(4)

Insert:

regulated superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

Schedule 3—Tax accounting for primary producer registered emissions units

Income Tax Assessment Act 1997

1 Subsection 392-45(2)

Repeal the subsection, substitute:

- (2) Your ***basic assessable income*** for an income year is your assessable income for the income year, less:
- (a) any amount included in your assessable income under section 82-65, 82-70 or 302-145 (certain employment termination payments and superannuation benefits); and
 - (b) any *net capital gain included in your assessable income under Division 102.

2 Subsections 392-80(2) and (3)

Repeal the subsections, substitute:

Assessable primary production income

- (2) Your ***assessable primary production income*** for the *current year is the sum of:
- (a) any amount of your *basic assessable income for the current year that was *derived from, or resulted from, your carrying on a *primary production business; and
 - (b) any amount included in your assessable income under section 420-25 for the current year because you cease to *hold a *primary producer registered emissions unit; and
 - (c) any amount of your basic assessable income for the current year to the extent that:
 - (i) you are a beneficiary of a trust that is carrying on a primary production business; and
 - (ii) the amount is your share of the trust's *net income that is attributable to, or resulted from, an amount being included in the trust's assessable income under section 420-25 because the trust ceases to hold an *Australian carbon credit unit; and

- (iii) the unit would have been a primary producer registered emissions unit if you had started to hold, held and ceased to hold the unit instead of the trust; and
- (d) any amount of your basic assessable income for the current year to the extent that:
 - (i) you are a partner in a partnership that is carrying on a primary production business; and
 - (ii) the amount is your share of the partnership's net income that is attributable to, or resulted from, an amount being included in the partnership's assessable income under section 420-25 because a partner (the **holding partner**) in the partnership ceases to hold a primary producer registered emissions unit; and
 - (iii) the unit would still have been a primary producer registered emissions unit if each other partner in the partnership had started to hold, held and ceased to hold the unit instead of the holding partner; and
- (e) any amount of your basic assessable income for the current year that was derived from, or resulted from, an *arrangement with a *carbon service provider to the extent that:
 - (i) the arrangement relates to the provider starting to hold, holding or ceasing to hold an Australian carbon credit unit; and
 - (ii) the unit would have been a primary producer registered emissions unit if you were starting to hold, holding or ceasing to hold the unit (as applicable) instead of the provider; and
 - (iii) the amount does not relate to you giving the provider a *quasi-ownership right over land.

Primary production deductions

- (3) Your **primary production deductions** for the *current year are:
 - (a) all amounts you can deduct that relate exclusively to the amount referred to in paragraph (2)(a); and
 - (b) so much of any other amounts you can deduct (other than *apportionable deductions) to the extent that they reasonably relate to the amount referred to in paragraph (2)(a); and

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- (c) so much of any other amounts you can deduct for the current year in relation to expenditure you incur in:
- (i) starting to *hold a *primary producer registered emissions unit; or
 - (ii) holding such a unit; or
 - (iii) ceasing to hold such a unit; and
- (d) so much of any other amounts you can deduct for the current year in relation to expenditure you incur under an *arrangement with a *carbon service provider to the extent that:
- (i) the arrangement relates to the provider starting to hold, holding or ceasing to hold an *Australian carbon credit unit; and
 - (ii) the unit would have been a primary producer registered emissions unit if you were starting to hold, holding or ceasing to hold the unit (as applicable) instead of the provider; and
 - (iii) the expenditure does not relate to you giving the provider a *quasi-ownership right over land.

Note 1: For the expenditure covered by subparagraph (c)(i), see subsections 420-15(1) and (4) and 420-65(4).

Note 2: For the expenditure covered by subparagraph (c)(iii), see subsection 420-42(1).

3 At the end of Subdivision 420-A

Add:

420-13 Meaning of *primary producer registered emissions unit*

A *registered emissions unit you start to *hold, hold or cease to hold is a ***primary producer registered emissions unit*** if:

- (a) the unit is an *Australian carbon credit unit; and
- (b) you are an individual; and
- (c) your holding of the unit starts on or after 1 July 2022 because the unit:
 - (i) is issued to you under the *Carbon Credits (Carbon Farming Initiative) Act 2011* in relation to an eligible offsets project (within the meaning of that Act); or

- (ii) is transferred to you by a *carbon service provider that was holding the unit because the unit was issued to the provider on or after 1 July 2022 under that Act in relation to such a project; and
- (d) at all times while the project is carried on, a *primary production business is carried on:
 - (i) in the same area as the project; or
 - (ii) in an area connected to an area in which the project is carried on; and
- (e) at all times while the project is carried on, you are:
 - (i) carrying on a primary production business covered by paragraph (d); or
 - (ii) a beneficiary of a trust that is carrying on a primary production business covered by paragraph (d); or
 - (iii) a partner in a partnership that is carrying on a primary production business covered by paragraph (d).

Note 1: If you cease to hold the registered emissions unit, the unit is not a primary producer registered emissions unit for any new holder of the unit (see paragraph (c)).

Note 2: A consequence of paragraph (c) is that the unit will not be a primary producer registered emissions unit for you for a subsequent holding of it. That is, if after disposing of the unit you later reacquire it.

Note 3: Different subparagraphs of paragraph (e) may apply to you at different times.

4 At the end of Subdivision 420-D

Add:

420-62 Primary producer registered emissions units

This Subdivision (other than section 420-60) does not apply to you in relation to a *primary producer registered emissions unit.

5 At the end of section 420-65

Add:

Primary producer registered emissions units

- (7) Subsections (1), (2) and (6) do not affect the application of:

- (a) Division 392 (long-term averaging of primary producers' tax liability); or
 - (b) Division 393 (farm management deposits);
- to expenditure to the extent that you incur it in becoming the *holder of, or ceasing to hold, a *primary producer registered emissions unit.

6 After subsection 420-70(2)

Insert:

- (3) Subsections (1) and (4) do not affect the application of:
 - (a) Division 392 (long-term averaging of primary producers' tax liability); or
 - (b) Division 393 (farm management deposits);
- to an amount that you are entitled to receive because you ceased to *hold a *primary producer registered emissions unit.

7 Subsection 995-1(1)

Insert:

carbon service provider means an entity that carries on the *business of providing services wholly or mainly relating to offsets projects (within the meaning of the *Carbon Credits (Carbon Farming Initiative) Act 2011*), including services involving the entity carrying out such projects as the project proponent (within the meaning of that Act).

primary producer registered emissions unit has the meaning given by section 420-13.

8 Application of amendments

The amendments made by this Schedule apply to assessments for the income year that includes 1 July 2022 and later income years.

Schedule 4—Cash flow relief for small and medium businesses

Part 1—Amendments

Taxation Administration Act 1953

1 At the end of section 45-405 in Schedule 1

Add:

Reduced GDP adjustment for 2023-24 income year

- (10) Despite subsections (3) and (6), if the current year is the 2023-24 income year, then for the purposes of the formula in subsection (2) the **GDP adjustment** is 6%.

Note: This subsection will be repealed on 1 July 2028: see Part 2 of Schedule 4 to the *Treasury Laws Amendment (2023 Measures No. 2) Act 2023*.

2 Application of amendment

The amendment made by this Part applies for the purposes of working out the amount of an instalment:

- (a) for an instalment quarter for the 2023-24 income year; and
- (b) that becomes due on or after the commencement of this Part.

Part 2—Sunsetting

Taxation Administration Act 1953

3 Subsection 45-405(10) in Schedule 1

Repeal the subsection.

Schedule 5—Enhancements to the Home Guarantee Scheme

Note: This Schedule amends the *National Housing Finance and Investment Corporation Act 2018*. If, at or before the commencement of this Schedule, another Act amends that short title, then references in this Schedule to that short title are instead references to that short title as amended by the other Act (see section 10 of the *Acts Interpretation Act 1901*).

National Housing Finance and Investment Corporation Act 2018

1 Paragraph 3(f)

Repeal the paragraph, substitute:

- (f) assisting earlier access to the housing market by:
 - (i) single parents with dependants; and
 - (ii) legal guardians of children where the legal guardian is single; and
- (g) assisting earlier access to the housing market by individuals who have not held an ownership interest in real property in Australia in the last 10 years.

Schedule 6—Deductible gift recipients— Australians for Unity Ltd

Income Tax Assessment Act 1997

1 Section 30-105 (at the end of the table)

Add:

13.2.37	Australians for Unity Ltd	the gift must be made after 31 May 2023 and before 1 July 2024
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2 Section 30-315 (after table item 26A)

Insert:

26B	Australians for Unity Ltd	item 13.2.37
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*[Minister's second reading speech made in—
House of Representatives on 10 May 2023
Senate on 13 June 2023]*

(52/23)