





# **Treasury Laws Amendment (2022 Measures No. 3) Act 2022**

**No. 75, 2022**

**An Act to amend the law relating to foreign  
investment and acquisitions, taxation, coronavirus  
and superannuation, 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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**An Act to amend the law relating to foreign  
investment and acquisitions, taxation, coronavirus  
and superannuation, and for related purposes**

*[Assented to 5 December 2022]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Treasury Laws Amendment (2022 Measures No. 3) Act 2022*.

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## 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.	5 December 2022
2. Schedule 1	1 January 2023.	1 January 2023
3. Schedules 2 and 3	The day after this Act receives the Royal Assent.	6 December 2022
4. Schedule 4	At the same time as the <i>Income Tax Amendment (Labour Mobility Program) Act 2022</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 July 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Foreign acquisitions and takeovers penalties**

### *Foreign Acquisitions and Takeovers Act 1975*

**1 Subsection 88(1) (penalty)**

Omit “15,000”, substitute “30,000”.

**2 Subsection 88(1) (penalty)**

Omit “150,000”, substitute “300,000”.

**3 Paragraph 94(4)(a)**

Before “the amount”, insert “double”.

**4 Paragraphs 94(4)(b) and (c)**

Omit “25%”, substitute “50%”.

**5 Paragraph 95(7)(a)**

Before “the amount”, insert “double”.

**6 Paragraphs 95(7)(b) and (c)**

Omit “25%”, substitute “50%”.

**7 Paragraph 95A(3)(a)**

Before “the amount”, insert “double”.

**8 Paragraphs 95A(3)(b) and (c)**

Omit “25%”, substitute “50%”.

**9 Paragraph 96(4)(a)**

Before “the amount”, insert “double”.

**10 Paragraphs 96(4)(b) and (c)**

Omit “25%”, substitute “50%”.

**11 Subsections 97(1), (1A) and (2), 115D(1), 115DA(1) and 115G(1) (penalty)**

Omit “250”, substitute “500”.

**12 Application of amendments**

The amendments made by this Schedule apply in relation to:

- (a) a contravention of subsection 95(1) of the *Foreign Acquisitions and Takeovers Act 1975* that:
  - (i) started before 1 January 2023 and did not end before 1 January 2023; or
  - (ii) starts on or after 1 January 2023; or
- (b) a contravention of any other provision of that Act committed on or after 1 January 2023.

## **Schedule 2—Data sharing to support government responses to major disasters**

### *National Emergency Declaration Act 2020*

#### **1 Section 10 (after paragraph (zd) of the definition of *national emergency law*)**

Insert:

(zda) section 355-66 in Schedule 1 to the *Taxation Administration Act 1953*;

### *Taxation Administration Act 1953*

#### **2 Subsection 355-65(8) in Schedule 1 (at the end of Table 7)**

Add:

13	an *Australian government agency	is for the purpose of administering a program declared under section 355-66 to be a major disaster support program.
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#### **3 After section 355-65 in Schedule 1**

Insert:

#### **355-66 Major disaster support programs**

- (1) For the purposes of item 13 of Table 7 in subsection 355-65(8), the Minister may, by legislative instrument, declare a program administered by an \*Australian government agency to be a major disaster support program if the Minister is satisfied that the program is, in effect:
- (a) responding to the impacts of an event to which subsection (2) of this section applies; and
  - (b) directed at supporting:
    - (i) individuals whom the event has significantly impacted; or

- (ii) \*businesses the operations of which the event has significantly disrupted.
- (2) This subsection applies to an event if:
  - (a) the event developed rapidly and resulted in:
    - (i) the death, serious injury or other physical suffering of a large number of individuals; or
    - (ii) widespread damage to property or the natural environment; or
  - (b) the event is an emergency to which a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*) relates (including a national emergency declaration that is no longer in force).

*Period of effect*

- (3) A declaration made under subsection (1) must specify the period for which the declaration is in force. The period must end no later than 2 years after the day the declaration is registered on the Federal Register of Legislation.

#### **4 Application of amendments**

Item 13 of Table 7 in subsection 355-65(8) in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to records and disclosures of information made on or after the commencement of this item, whether the information was obtained before, on or after that commencement.

## **Schedule 3—Modification power**

### ***Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020***

#### **1 Subitems 1(7) and (8) of Schedule 5**

Omit “2022”, substitute “2023”.

#### **2 Application of amendments**

The amendment of subitem 1(7) of Schedule 5 to the *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020* made by this Schedule applies to a determination made under subitem 1(2) of Schedule 5 to that Act if the determination:

- (a) was made before the commencement of this item and did not cease to have operation before that commencement; or
- (b) is made on or after that commencement.

## Schedule 4—Tax treatment for new or revised visa programs

### *Income Tax Assessment Act 1936*

#### **1 Subsection 170(10AA) (table item 15)**

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

### *Income Tax Assessment Act 1997*

#### **2 Section 11-55 (table item headed “foreign aspects of income taxation”)**

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

#### **3 Section 12-5 (table item headed “employees”)**

Omit:

pensions, gratuities or retiring allowances for  
ex-employees ..... 25-50

Seasonal Labour Mobility Program, delayed deduction  
for salary, wages etc. paid to employees under  
program until Seasonal Labour Mobility Program  
withholding tax payable has been paid ..... 26-25A

substitute:

labour mobility programs, delayed deduction for  
salary, wages etc. paid to employees under program  
until labour mobility program withholding tax  
payable has been paid ..... 26-25A

pensions, gratuities or retiring allowances for  
ex-employees ..... 25-50

#### **4 Section 26-25A (heading)**

Repeal the heading, substitute:

**26-25A Payments to employees—labour mobility programs**

**5 Subsection 26-25A(1)**

Omit “(about the Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

**6 Paragraph 26-25A(2)(b)**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*labour mobility program withholding tax”.

**7 Subdivision 840-S (heading)**

Repeal the heading, substitute:

**Subdivision 840-S—Labour mobility program withholding tax**

**8 Section 840-900**

Omit “the Seasonal Labour Mobility Program”, substitute “a labour mobility program”.

**9 Section 840-905 (heading)**

Repeal the heading, substitute:

**840-905 Liability for labour mobility program withholding tax**

**10 Paragraph 840-905(a)**

Repeal the paragraph, substitute:

- (a) that is salary, wages, commission, bonuses or allowances paid to you as an employee of an Approved Employer under a program covered by section 840-906; and

**11 At the end of paragraph 840-905(b)**

Add:

- ; or (iii) you hold a visa of a kind prescribed by the regulations for the purposes of this subparagraph.

**12 Section 840-905 (note 1)**

Repeal the note, substitute:

Note 1: The tax, which is called labour mobility program withholding tax, is imposed by the *Income Tax (Labour Mobility Program Withholding Tax) Act 2012* and the rate of the tax is set out in that Act.

### **13 After section 840-905**

Insert:

#### **840-906 Covered labour mobility programs**

This section covers the following programs:

- (a) the Seasonal Labour Mobility Program;
- (b) the Pacific Australia Labour Mobility scheme;
- (c) each program prescribed by the regulations for the purposes of this paragraph.

### **14 Section 840-910 (heading)**

Repeal the heading, substitute:

#### **840-910 When labour mobility program withholding tax is payable**

### **15 Subsection 840-910(1)**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*Labour mobility program withholding tax”.

### **16 Subsections 840-910(2), (3) and (4)**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*labour mobility program withholding tax”.

### **17 Section 840-915**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*labour mobility program withholding tax”.

### **18 Section 840-920 (heading)**

Repeal the heading, substitute:

**840-920 Overpayment of labour mobility program withholding tax**

**19 Section 840-920**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*labour mobility program withholding tax”.

**20 Subsection 995-1(1)**

Insert:

*labour mobility program withholding tax* means income tax payable under Subdivision 840-S.

Note: The tax is imposed by the *Income Tax (Labour Mobility Program Withholding Tax) Act 2012* and the rate of the tax is set out in that Act.

**21 Subsection 995-1(1) (definition of *Seasonal Labour Mobility Program withholding tax*)**

Repeal the definition.

***Income Tax (Transitional Provisions) Act 1997***

**22 Subdivision 840-S (heading)**

Repeal the heading, substitute:

**Subdivision 840-S—Labour mobility program withholding tax**

***Taxation Administration Act 1953***

**23 Subsection 8AAB(4) (table item 18A)**

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

**24 Subsection 10-5(1) in Schedule 1 (table item 22D)**

Omit “the Seasonal Labour Mobility Program”, substitute “a labour mobility program”.

**25 Subdivision 12-FC in Schedule 1 (heading)**

Repeal the heading, substitute:

## **Subdivision 12-FC—Labour mobility programs**

### **26 Paragraph 12-319A(a) in Schedule 1**

Omit “the Seasonal Labour Mobility Program”, substitute “a program covered by section 840-906 of the *Income Tax Assessment Act 1997* (about labour mobility programs)”.

### **27 At the end of paragraph 12-319A(b) in Schedule 1**

Add:

; or (iii) the employee holds a visa of a kind prescribed by regulations made under the *Income Tax Assessment Act 1997* for the purposes of subparagraph 840-905(b)(iii) of that Act.

### **28 Subsection 15-15(1) in Schedule 1 (note 3A)**

Omit “the Seasonal Labour Mobility Program”, substitute “certain labour mobility programs”.

### **29 Paragraph 16-195(1)(ab) in Schedule 1**

Omit “(Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

### **30 Paragraph 18-10(1)(c) in Schedule 1**

Omit “(Seasonal Labour Mobility Program)”, substitute “(Labour Mobility Programs)”.

### **31 Group heading before section 18-30 in Schedule 1**

Omit “Seasonal Labour Mobility Program”, substitute “labour mobility program”.

### **32 Section 18-33 in Schedule 1 (heading)**

Repeal the heading, substitute:

### **18-33 Credit: labour mobility programs**

### **33 Paragraph 18-33(1)(b) in Schedule 1**

Omit “(about the Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

**34 Paragraph 18-35(1AA)(a) in Schedule 1**

Omit “Seasonal Labour Mobility Program”, substitute “labour mobility programs”.

**35 Paragraph 18-35(1AA)(b) in Schedule 1**

Omit “\*Seasonal Labour Mobility Program withholding tax”, substitute “\*labour mobility program withholding tax”.

**36 Paragraph 18-35(1AA)(d) in Schedule 1**

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

**37 Subsection 250-10(2) in Schedule 1 (table item 39AA)**

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

**38 Application of amendments**

The amendments made by this Schedule apply in relation to salary, wages, commission, bonuses and allowances paid on or after 1 July 2022.

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*[Minister’s second reading speech made in—  
House of Representatives on 8 September 2022  
Senate on 27 October 2022]*

(83/22)

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