TAXATION

Government's Homebuilder program announced

Government has announced a "HomeBuilder" program that will provide eligible owner-occupiers with a tax-free grant of $25,000 to build a new home or substantially renovate.

Tax time preparation – ATO guidance

ATO has released information to help taxpayers prepare for tax time including key changes and new measures for 2020.

ATO reminder: instant asset write-off subject to car limit

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Increased tax/BAS agent application fees from 1 July

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Application form for SAPs updated

ATO has released a revised application form and instructions to be used when applying for a substituted accounting period (SAP).

ATO expansion of the RTP schedule to large private companies

ATO is seeking feedback on its proposed four additional Category C questions for the Reportable Tax Position schedule.

Lodgment and payment deferrals – ATO snapshot

ATO has provided a snapshot of a range of support measures for tax professionals including lodgement and payment deferrals.

ATO reminds employers to finalise STP payroll data by July 2020

ATO has reminded employers to finalise declarations for employees' EOFY payroll information via the employers' Single Touch Payroll enabled solution.

Employee share schemes unduly complicated

The House of Reps Standing Committee on Tax and Revenue has conducted a public hearing as a part of its inquiry into the tax treatment of employee share schemes.

ATO: DGR reforms delayed due to COVID-19

ATO has announced that reforms to streamline the administration and oversight of deductible gift recipient organisations has been delayed due to COVID-19.

JobKeeper key dates updated on ATO website

ATO has updated its JobKeeper key dates webpage to outline dates for enrolment and monthly declarations.

Tax reform a "complicated issue" for Budget

Government has flagged a "JobMaker" program as a part of its plan for an economic recovery from COVID-19 over the next three to five years.

GIC and SIC rates

ATO has advised the general interest charge and shortfall interest charge rates for the first quarter of the 2020-21 income tax year.

GST-free supplies of transaction accounts

ATO has issued a draft GST determination which considers the extent to which the supply of a transaction account is GST-free.

GST: creditable purpose of acquisitions

Draft update to a practical compliance guideline has been issued which sets out the ATO's compliance approach for GST apportionment of acquisitions.

Compensation for GST charged on sale of apartment

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Taxpayer's claim for input tax credits rejected

AAT has disallowed claims for input tax credits relating to the alleged purchase of gold as the claimant failed to discharge its onus of proof.

FINANCIAL SERVICES

Financial adviser banned for SMSF borrowing advice

ASIC has banned a Hunter-Valley based financial adviser for five years in relation to advice provided to clients about SMSF borrowing arrangements.

Fintech regulatory sandbox to start 1 September

Regulations has been registered to establish an enhanced regulatory sandbox to enable fintech and start-up businesses to trial new financial products.

SUPERANNUATION

Super guarantee not payable on JobKeeper unless work performed

Regulations has been registered to confirm that employers are not obliged to make Superannuation Guarantee contributions in certain circumstances.

Super contributions flexibility for recent retirees

Regulations has been registered to allow people aged 65 and 66 to make voluntary super contributions without meeting the work test.

Super clearing house payments due by 23 June

ATO has reminded employers who use the Small Business Superannuation Clearing House that payments must be received by 23 June to claim a tax deduction.

Super funds and non-arm's length expenditure: compliance

ATO has issued a practical compliance guideline setting out its transitional compliance approach for the application of the non-arm's length expenditure rules.

Family law super splits: interest rate for adjusting base amount

A Determination has been registered that specifies the interest rate to be used for adjusting the "base amount" allocated in a court order.

SMSF returns lodged with incorrect auditor details

TPB is undertaking a review of 74 registered tax practitioners who have allegedly provided false information to the ATO.

ATO support for SMSFs issued with a commutation authority

ATO has announced that it is implementing a temporary email service for SMSF trustees and their agents to help where a commutation authority has been issued to the fund.

Total super assets down 7.7% for March 2020

APRA has released its quarterly super performance publication and the stats show a decrease of 7.7% in total super assets for the March 2020 quarter.

REGULATOR NEWS

Appointment to the Board of Taxation announced

Assistant Treasurer has announced the reappointment of Dr Julianne Jaques as a part-time member of the Board of Taxation for a further three-year period.

Latest news from the AASB

The *AASB Weekly Update* is the AASB's weekly snapshot of developments at the AASB and in international financial reporting. More information here

Victorian Small Business Commission eNews

The Victorian Small Business Commission (VSBC) is here to help resolve disputes that might happen as a result of coronavirus (COVID-19), including disputes over rent, goods and services and unpaid invoices, and disputes with financial providers and insurers. More information here

TAXATION

Government's Homebuilder program announced

The Government has announced a "HomeBuilder" program that will provide eligible owner-occupiers (not just first home buyers) with a tax-free grant of $25,000 to build a new home or substantially renovate an existing home. The program will apply from 4 June 2020 until 31 December 2020. Construction must be contracted to commence within three months of the contract date.

HomeBuilder applicants will be subject to eligibility criteria, including income caps of $125,000 for singles and $200,000 for couples based on their latest assessable income. A national dwelling price cap of $750,000 will apply for new home builds, and a renovation price range of $150,000 up to $750,000 will apply to renovating an existing home with a current value of no more than $1.5 million. The program is expected to provide around 27,000 grants at a total cost of around $680 million.

The program will be implemented via a National Partnership Agreement, signed by the Commonwealth and State and Territory governments. Full eligibility details are set out on the Treasury Coronavirus Economic Response website.

Tax time preparation – ATO guidance

The ATO has released information to help taxpayers prepare for tax time. Tax time 2020 provides information about key changes and new measures; the ATO's service commitment; updating of tax practitioner's client list and checking lodgment program due dates; reviewing security to stop fraud; what's new in pre-filling; the ATO's focus on work-related expenses and data matching; how to avoid common errors and prevent delays in processing returns; and what to consider before lodging, including residency, foreign income, the sharing economy and business industry codes.

Tax Time Toolkits is also available, which is a suite of resources to help taxpayers prepare and lodge tax returns correctly.

ATO reminder: instant asset write-off subject to car limit

The ATO has reminded taxpayers that the increased and expanded instant asset write-off (IAWO) is still subject to the car limit of $57,581 (for the 2019-20 financial year). As businesses prepare for their end of financial year tax planning, the ATO said it is receiving questions about how the IAWO applies to vehicles. This follows the increase of the IAWO threshold from $30,000 to $150,000 for business entities with aggregated annual turnover of less than $500m (up from $50m) from 12 March 2020 to 30 June 2020.

The ATO said the IAWO does not apply equally to all vehicles. Rather, the car cost limit of $57,581 for the 2019-20 financial year applies to passenger vehicles (except motor cycles or similar vehicles) designed to carry a load less than one tonne and fewer than nine passengers. The ATO reminded taxpayers that they cannot claim the excess cost of the car under any other depreciation rules. However, a taxpayer can claim less than the $150,000 threshold for other vehicles (eg trucks and machinery). The car limit does not apply to vehicles fitted out for use by people with disability.

If a taxpayer has ordered and paid for a car by 30 June 2020, but not received it by that time, the ATO says the taxpayer cannot claim the increased IAWO. The taxpayer must have first used the car, or have it delivered ready for use, between 12 March 2020 and 30 June 2020. A taxpayer cannot claim the IAWO for this period if they have not received the vehicle by 30 June 2020. The ATO also reminded taxpayers that different eligibility criteria and thresholds apply to assets first used, or installed ready for use, prior to 12 March 2020.

Increased tax/BAS agent application fees from 1 July

The TPB has announced an increase in application fees for tax and BAS agents from 1 July 2020. The application fee to register or renew as a tax agent, BAS agent or tax (financial) adviser is subject to a CPI adjustment on 1 July each year. The CPI adjustment was introduced by the Government in the 2018-19 Federal Budget.

Agent application fees from 1 July 2020 will be:

- Tax agents - $700 (up from $687 prior to 1 July);
- Tax (financial) advisers - $560 (up from $550 prior to 1 July);
- BAS agents - $140 (up from $137 prior to 1 July).

The TPB says agents must pay the application fee in full when they submit their application to register or renew their registration. The fee is not subject to GST. If agents have an upcoming renewal, and they pay and submit before 1 July 2020, the

TPB says the payment will be based on the old fee. Applications paid and submitted after 1 July 2020 will be based on the new fee.

Application form for SAPs updated

The ATO has released a revised application form and instructions to be used when applying for a substituted accounting period (SAP) or to change from a SAP back to a normal accounting period (NAT 5087). According to the ATO, new features include:

- online capacity;
- different questions depending on answers to previous questions (designed to ensure applicangs are only answering what is required);
- advice as to when additional evidence is required;
- instructions for lodging the application through the Business Portal or Online services for agents; and
- setting email as the default communication channel.

ATO expansion of the RTP schedule to large private companies

The ATO is seeking feedback on its proposed four additional Category C questions for the Reportable Tax Position (RTP) Schedule. Essentially, the ATO proposes for income tax years starting on or after 1 July 2020 all large companies (regardless of whether they are public, foreign owned or private) will be required to lodge an RTP Schedule.

For the 2021 income tax year, the ATO will notify selected large private companies (by the end of July 2020 if not earlier) that they are required to lodge the RTP Schedule. The notification requirements will be determined based on the Total Business Income (TBI) in the last lodged tax return of the company and other entities in the economic group. Large private companies who have not been notified will not have an obligation to lodge the RTP Schedule for the 2020 income tax year.

For subsequent income tax years, it is intended that large private companies will be required to self-assess their lodgment requirement.

In retaining the same turnover thresholds and the economic group definition for public, foreign owned and private companies, the ATO proposes that from income tax years starting on or after 1 July 2020, RTP Schedules must be lodged by large private companies:

- with a TBI of $250 million or more; or
- with TBI of $25 million or more and who are members of an economic group whose TBI is $250 million or more.

Comments due by 15 June 2020.

Lodgment and payment deferrals – ATO snapshot

The ATO has provided a snapshot of a range of support measures for tax professionals. Lodgment and payment deferrals are as follows:

- Company 2018-19 income tax returns due on 15 May 2020 - now due by 5 June 2020 (automatically applied);
- SMSF 2018-19 annual returns due on 15 May 2020 and 5 June 2020 - now due by 30 June 2020 (automatically applied);
- 2018-19 income tax returns for individuals, partnerships, and trusts - can be lodged by the 5 June concessional due date, provided any liability is paid by this date;
- Lodgment and payment due date for 2019-20 FBT annual returns - deferred to 25 June 2020 (automatically applied);
- Bushfire impacted company, individual or trust - can lodge until 5 June 2020;
- SMSFs affected by bushfires - lodgment due date for annual returns extended to 30 June 2020.

Payment deferrals: If unable to make a payment by the due date, the ATO says tax agents can submit a payment-only deferral request form on their clients' behalf. (See: Lodgment program deferrals). Given the challenges faced by many due to COVID-19 and the recent bushfires, the ATO says practitioners who unable to meet the 85% lodgment program performance benchmark will not be adversely affected. The ATO will work pragmatically and flexibly to ensure the right support for impacted tax professionals.

ATO reminds employers to finalise STP payroll data by July 2020

The ATO has reminded employers to finalise declarations for employees' EOFY payroll information via the employers' Single Touch Payroll (STP) enabled payroll solution. The deadline is 14 July 2020 for employers with 20 or more employees (or 31 July 2020 employers with 19 or fewer employees).

When an employer reports and finalises employees' information through STP, the ATO says it is exempt from providing payment summaries to your employees (employees need to be notified of this); and lodging a payment summary annual report to the ATO. An ATO factsheet is available to help employees understand the changes.

Employee share schemes unduly complicated

The House of Reps Standing Committee on Tax and Revenue has conducted a public hearing as part of its inquiry into the tax treatment of employee share schemes (ESS). The Committee heard from Treasury officials and the Law Council of Australia, represented by Mr Andrew Clements. The Law Council submitted that the ESS rules are "unduly complicated". When small-business operators ask about setting up an ESS, Mr Clements said the advice is usually along the lines, "This is so complicated and expensive that you would be better off just giving the cash to the employees rather than setting up the scheme."

Mr Clements said the rules are complicated because there have been four iterations of them, and all of those iterations have had different purposes, which generally focus on revenue protection. The two exceptions to that proposition include, firstly, the longstanding exemption for broad based equity. That is the $1,000 exemption plans that are targeted at listed vehicles and have been adopted broadly. Mr Clements noted that the $1,000 threshold has not changed much since it was set at $400 in 1985. Secondly, Mr Clements submitted that the "startup concession" certainly works as a tax outcome as it deals with two fundamental problems: (i) taxation at cessation of employment; (ii) the taxation gain as a capital gain rather than ordinary income. However, the take-up of it has not been as strong as it should have been, Mr Clements said.

Another public hearing will be conducted in Canberra on 19 June 2020.

ATO: DGR reforms delayed due to COVID-19

The ATO has announced that reforms to streamline the administration and oversight of deductible gift recipient (DGR) organisations, due to begin on 1 July 2020, have been delayed due to the COVID-19 pandemic. This means the following three reforms will not proceed until the tax law is amended and passed through parliament:

- the requirement for non- government DGRs to register as a charity with the Australian Charities and Not-for-profits Commission
- the transfer of the administration of the four DGR registers to the ATO and ACNC, and
- the removal of certain public fund requirements for DGRs.

Although there is no timeframe for when the announced changes will become law, DGRs not already registered as charities can register with the ACNC at any time to be ready for when these amendments are legislated.

JobKeeper key dates updated on ATO website

The ATO has updated its JobKeeper Key Dates webpage. The update is a good reminder that, for employers who had not registered by 31 May, there is no more access to JobKeeper payments for April and May.

If employers are enrolling for JobKeeper payments for the first time after May, they must enrol and identify eligible employees and business participants by the end of the month they wish to claim for. For example, if employers wish to receive JobKeeper payments for JobKeeper fortnight five (ie 25 May to 7 June), they have until 31 May to register.

In addition, registered employers must make a business monthly declaration each month to claim JobKeeper payments for the previous month. This needs to be done between the 1st and 14th of the month. For example, employers who wish to be reimbursed for JobKeeper payments in May need to complete their declaration by 14 June.

Tax reform a “complicated issue” for Budget

The Government has flagged a "JobMaker" program as part of its plan for an economic recovery from the Coronavirus pandemic over the next three to five years. In an address to the National Press Club, the Prime Minister said JobMaker is part of the Government's broader change agenda and will focus on skills and industrial relations to help the economy emerge from COVID-19. Mr Morrison said the various components of the JobMaker plan will be addressed in the weeks and months ahead, in the lead up to the Federal Budget in October.

In relation to the possible role of tax reform as part of the recovery agenda, the Prime Minister said any tax aspects will come through the Government's change agenda process, and through other channels that the Treasurer will work on. Most notably, the Federal Budget on 6 October 2020. In the Q&A following his address, the Prime Minister added that:

"But I would simply say that our focus, as I said in the speech, is on what generates investment and what creates jobs. You ask someone for their opinion on tax, and they can give you volumes. But I'm interested in the stuff that's going to create jobs and create investment. And I believe they are two, and if we can agree some ways forward there, I suspect more of it is at the federal level certainly on income tax. I don't mean specifically personal income tax. All those issues, I mean that's the mix. We know what the mix is. I'm not dropping bread crumbs there or anything like that, I'm just saying tax is big. It is a complicated issue. We will work our way through it.".

GIC and SIC rates

The ATO has advised that the General Interest Charge (GIC) and Shortfall Interest Charge (SIC) rates for the first quarter of the 2020-21 income tax year are as follows - for the period 1 Jul 2020 to 30 September 2020:

- GIC rate is 7.10%
- GIC daily compounding rate is 0.01939891%.
- SIC rate is 3.10%
- SIC daily compounding rate is 0.00846994%.

GST-free supplies of transaction accounts

Draft GST Determination GSTD 2020/D1, has been issued, considers the extent to which the supply of a transaction account is GST-free under the following items in s 38-190(1) of the GST Act:

- item 3 - supplies used or enjoyed outside Australia; and
- item 4(a) - supplies of rights where the rights are for use outside Australia.

The supply of a transaction account is GST-free under item 3 if the account holder is outside Australia when the supply occurs and the "effective use or enjoyment" of the account also takes place outside of Australia. In the ATO's view, the effective use or enjoyment of a transaction account will take place outside of Australia to the extent that:

- transactions under the account are undertaken while the account holder is physically overseas; and
- the account holder's overseas presence is integral to that transaction. This means that the account holder must be "physically present at a specific

location (outside of Australia) in order to initiate the transaction" (eg a cash withdrawal at an overseas ATM).

The ATO also states that neither item 3 nor item 4(a) will apply to the extent that the transaction account is used to undertake transactions where the account holder is not physically present at the location of the merchant or other counterparty in relation to the underlying transaction.

Where the supply of a transaction account is partially GST free, the account provider will need to consider apportioning its acquisitions. For this purpose, the ATO has issued a draft schedule to PCG 2019/8.

Proposed date of effect: 1 October 2020.

GST: creditable purpose of acquisitions

A draft update to Practical Compliance Guideline PCG 2019/8 has been issued. PCG 2019/8 sets out the ATO's compliance approach for GST apportionment of acquisitions that relate to certain financial supplies. Currently PCG 2019/8 contains one schedule (for credit card issuing businesses).

The draft update adds a second schedule to PCG 2019/8, which will apply to ADIs that supply interests in or under various accounts, including transaction accounts. Draft Sch 2 sets out the ATO's proposed framework for assessing the risk associated with apportionment methods used to determine the extent of creditable purpose (ECP) of acquisitions to provide transaction accounts. The draft framework comprises four"zones", from green (low risk) to red (high risk). ADIs are expected to self-assess their risk category. An ADI will be in the green zone if it applies an ECP rate not exceeding 20% as a weighted average across all acquisitions to the extent that they are for use in making supplies in its transaction accounts businesses.

Proposed date of effect: the first tax period starting on or after 1 October 2020.

Compensation for GST charged on sale of apartment

A Canberra developer has been ordered to pay $29,914 in relation to an action for misleading and deceptive conduct involving the sale of a unit which the developer allegedly claimed was subject to GST. The sale date was not specified, but it was between 2013 and 2015: Lloyd v Belconnen Lakeview Pty Ltd (No 2) [2020] FCA 698 (Federal Court, Lee J, 14 May 2020).

The developer obtained real property under a 99-year lease. It then developed properties which it allegedly marketed as being subject to GST (ie for a GST-inclusive price). However, it is stated in the decision that, in the interim, it had obtained a private ruling stating that the sale of units would be input taxed.

The Federal Court held last year that the developer may have engaged in misleading and deceptive conduct: Lloyd v Belconnen Lakeview Pty Ltd [2019] FCA 2177. It was then up to each purchaser to take action. The purchaser took her action in the Federal Court also, which held that the sale contract was not amended by the vendor to reflect the change in the GST treatment from a taxable supply to input taxed – and awarded the amount as "restitutionary relief".

Taxpayer's claim for input tax credits rejected

The AAT has disallowed claims for input tax credits relating to the alleged purchase of gold as the claimant failed to discharge its onus of proof by demonstrating that the assessments issued to it were excessive or otherwise incorrect: Cash World Gold Buyers Pty Ltd and FCT [2020] AATA 1546 (File No 2016/0273, Lazanas SM, 28 May 2020).

The case is one of a series involving gold and follows a similar pattern (in that the claimants involved have all been unsuccessful). The AAT rejected the claims (in this case amounting to some $6.9 million) on the basis that, among other things, it did not accept that key evidence from the claimant was "truthful". According to the AAT, there were "too many gaps, inconsistencies and vagaries in their evidence and there was no reliable independent evidence to support" the contentions of witnesses. The AAT also held that the claimant did not hold valid tax invoices necessary to claim input tax credits and it was not "an appropriate case" for the AAT to treat the documents that the claimant had in its possession as valid tax invoices. In other words, there were not appropriate records to substantiate the claims.

The AAT also felt that there was no basis for remitting the 50% penalties that had been imposed by the Commissioner (amounting to some $856,489), ie that the penalty was "appropriate".

FINANCIAL SERVICES

Financial adviser banned for SMSF borrowing advice

ASIC has banned a Hunter Valley-based financial adviser for five years in relation to advice provided to clients about self-managed super fund (SMSF) borrowing arrangements.

ASIC alleged that the former adviser failed to provide advice that was in the best interests of his clients and failed to provide advice that was appropriate for his clients' objectives. ASIC said most of the adviser's clients were advised to use a limited recourse borrowing arrangement (LRBA) to fund the purchase of real property through an SMSF.

When providing this advice, ASIC alleged that the adviser did not professionally and independently assess whether using an SMSF and borrowed funds to invest in property was an appropriate strategy for each of his clients. ASIC alleged that he did not adequately investigate or offer any alternative investment strategies that may have provided greater diversification of risks. ASIC also alleged that the adviser prioritised his own interests when providing insurance advice to generate large commissions for himself.

Fintech regulatory sandbox to start 1 September

The Corporations (FinTech Sandbox Australian Financial Services Licence Exemption) Regulations 2020 has been registered to establish an enhanced regulatory sandbox to enable fintech and start-up businesses to trial new financial products. The Regulations prescribe the rules and conditions for the AFS licence exemptions to allow fintech businesses to test the viability of certain financial products and services without needing to first hold an AFS licence. The broader legislative framework was established via the Treasury Laws Amendment (2018 Measures No 2) Act 2020.

In order to rely on the AFS licence exemptions, an eligible person must first notify ASIC that they intend to start relying on the exemption to provide an eligible financial service in relation to a particular kind of financial product. Eligible fintech businesses will have 24 months to test their products with customers in the sandbox before needing to obtain an AFS licence or credit licence.

The Assistant Minister, Senator Jane Hume, said consumer protections remain in place. Firms will be required to demonstrate that their proposed service is genuinely innovative and is likely to result in net consumer benefit. Firms will also be required to have adequate professional indemnity insurance and be a member of the Australian Financial Complaints Authority (AFCA). A person who is relying on the exemption is still required to meet the best interest obligations in the Corporations Act 2001.

Date of effect: 1 September 2020.

SUPERANNUATION

Super guarantee not payable on JobKeeper unless work performed

The Superannuation Guarantee (Administration) Amendment (Jobkeeper Payment) Regulations 2020 has been registered to confirm that employers are not obliged to make Superannuation Guarantee contributions in relation to salary or wages that do not relate to the performance of work, and are only paid to an employee to satisfy the wage condition for getting a JobKeeper payment. The Regulations complement the JobKeeper scheme which subsidises for eligible businesses the cost of wages for eligible employees ($1,500 per fortnight) from 30 March 2020 to 27 September 2020.

Note that an employer is not required to be entitled to a JobKeeper payment for reg 12A to apply. Rather, it can apply where an employer has a reasonable belief that it is entitled to a JobKeeper payment, and has subsequently satisfied the wage condition in respect of its employees, but is ultimately not entitled to a JobKeeper payment. For example, this may occur where an employer has relied on false statements provided by an employee about the employee's eligibility to participate in the JobKeeper scheme.

Date of effect: 3 June 2020.

Super contributions flexibility for recent retirees

The Superannuation Legislation Amendment (2020 Measures No 1) Regulations 2020 has been registered to amend the SIS Regulations to allow people aged 65 and 66 (ie under age 67) to make voluntary superannuation contributions (both concessional and non-concessional) without meeting the work test. Individuals aged 65 to 74 currently must work at least 40 hours in any 30-day period in the financial year in which the contributions are made (the "work test") in order to make voluntary personal contributions.

The SIS Regs have also been amended to increase the age limit from 69 to 74 for making spouse contributions. Currently, those aged 70 and over cannot receive contributions made by another person on their behalf. The amending regulations also enable spouse contributions in respect of a recently retired member with total superannuation balances less than $300,000 who is eligible for the existing one-year work test exemption for recent retirees.

Note that the other element of this 2019-20 Budget measure (increasing the age limit for accessing the bring forward non-concessional contributions cap) will be implemented through amendments to s 292-85(3)(c) of the ITAA 1997 proposed by the Treasury Laws Amendment (More Flexible Superannuation) Bill 2020.

Date of effect: Applicable to contributions made from 1 July 2020.

Super clearing house payments due by 23 June

The ATO has reminded employers who use the Small Business Superannuation Clearing House (SBSCH) that payments must be received by the SBSCH by 23 June 2020 for the purpose of claiming a tax deduction for the 2019-20 income year. This is because superannuation payments are only considered to be "paid" once they have been processed and "received" by the employees' super funds, not the date the SBSCH accepts the payments.

For 2019-20, the ATO says super payments need to be accepted by the SBSCH by 23 June 2020 to allow time for the employees' super funds to receive the payments by 30 June. Super fund details of employees should also be updated as incorrect information could risk missing the 23 June deadline. The due date for quarterly super guarantee (SG) payments has not changed. The next quarterly due date is 28 July 2020.

Super funds and non-arm's length expenditure: compliance

The ATO has issued PCG 2020/5 setting out its transitional compliance approach for the application of the non-arm's length expenditure (NALE) rules to complying superannuation funds. A super fund may derive non-arm's length income (NALI) under s 295-550 of the ITAA 1997 (taxable at 45%) where the fund incurs NALE (or where expenditure is not incurred) in producing income.

The ATO has confirmed that it will not allocate compliance resources to determine whether the NALI provisions apply to a complying super fund for the 2018-19, 2019-20 and 2020-21 income years, where the fund incurred NALE (as described in paras 9 to 12 of Draft Law Companion Ruling LCR 2019/D3) of a general nature that has a sufficient nexus to all ordinary and/or statutory income derived by the fund (eg non-arm's length expenditure on accounting services). However, this transitional compliance approach does not apply where the fund incurred NALE that directly related to the fund deriving particular ordinary or statutory income.

Date of effect: Applies both before and after its issue in respect of the 2018-19, 2019-20 and 2020-21 income years.

Family law super splits: interest rate for adjusting base amount

The Family Law (Superannuation) (Interest Rate for Adjustment Period) Determination 2020 has been registered. It specifies the interest rate to be used for adjusting the "base amount" allocated in a court order or a superannuation agreement under the Family Law Act 1975 that splits a future defined benefit superannuation interest or an interest in a self-managed superannuation fund (SMSF). Where the adjustment period is the financial year beginning on 1 July 2020, the interest rate is set at 0.057 (up from 0.048 for 2019-20) for the purposes of reg 45D(3) of the Family Law (Superannuation) Regulations 2001.

SMSF returns lodged with incorrect auditor details

The TPB has issued a media release stating that it is undertaking a review of 74 registered tax practitioners who have allegedly provided false information to the

ATO. It was identified during an ATO compliance campaign that commenced in 2019, the tax practitioners allegedly lodged 2017 and 2018 self-managed superannuation fund (SMSF) annual returns with an incorrect SMSF Auditor Number (SAN) and failed to satisfactorily respond to ATO inquiries. The ATO then referred the matter to the TPB.

"The TPB will be demanding an explanation from all 74 tax practitioners. Misconduct or failure to adequately respond to the TPB's inquiries is a breach of the Code of Professional Conduct and may result in imposition of sanctions including suspension or termination of registration," TPB Chair, Ian Klug AM said.

ATO support for SMSFs issued with a commutation authority

The ATO has announced that it is implementing a temporary email service for SMSF trustees and their agents to help where a commutation authority has been issued to the fund.

SMSF trustees or their agents can use this temporary email service to understand why the ATO has sent the SMSF a commutation authority and what needs to be done in response. The ATO email service can also be used if a member of the SMSF has been approached by their APRA fund because the ATO has issued their APRA fund with a commutation authority, and the SMSF trustee is concerned there may be issues associated with the SMSF's TBAR reporting.

SMSF trustees and their agents can email the ATO early engagement and voluntary disclosure mailbox until 31 August 2020 - email: SMSFRegulatoryContraventionVoluntaryDisclosure@ato.gov.au. Note that this ATO service does not replace the obligation for SMSF trustees to comply with a commutation authority within 60 days. The service is also not available to assist individuals who have exceeded their $1.6m pension transfer balance cap and have been sent an excess transfer balance determination.

Total super assets down 7.7% for March 2020

APRA has released its Quarterly Superannuation Performance publication and the Quarterly MySuper Statistics report for March 2020 showing a decrease of -7.7% in total superannuation assets for the quarter, comprising a decrease of -7.4% in APRA-regulated assets and -9.4% for self-managed super funds (SMSFs). The annual industry-wide rate of return (ROR) was -10.3% for the March 2020 quarter for entities with more than four members. This represents the lowest quarterly ROR recorded by APRA since data collection began 15 years ago.

For the year ended 31 March 2020, total superannuation assets have fallen slightly by -0.3% to $2.731 trillion. Over the 12 months to 31 March 2020, total MySuper assets were down -0.4% to $709.9bn. SMSF assets totalled $675.6bn as at 31 March 2020 (down -10.3% from $745.3bn in December 2019). There were 596,180 SMSFs estimated at 31 March 2020 (up 1.7% from 586,178 a year ago).

REGULATOR NEWS

Appointment to the Board of Taxation announced

Assistant Treasurer Michael Sukkar has issued a media release announcing the reappointment of Dr Julianne Jaques as a part-time member of the Board of Taxation for a further three-year period from 1 July 2020.

Dr Jaques is a commercial barrister, Chartered Accountant and Chartered Tax Adviser with over 25 years' experience as a taxation professional and holds bachelor degrees in Economics and Law from Monash University and a Doctorate in Juridical Science from the University of Melbourne.

Latest news from the AASB

The *AASB Weekly Update* is the AASB's weekly snapshot of developments at the AASB and in international financial reporting. More information here

Victorian Small Business Commission eNews

The Victorian Small Business Commission (VSBC) is here to help resolve disputes that might happen as a result of coronavirus (COVID-19), including disputes over rent, goods and services and unpaid invoices, and disputes with financial providers and insurers. More information here