TAXATION

Over $1bn tax refunds issued already

The Assistant Treasurer has welcomed a report by the ATO that more than 457,000 individual refunds have been issued as at 14 July.

ATO's top three lodgement issues for 2019-20

ATO outlined the top three lodgement issues for tax time 2020 including claiming multiple work from home methods for the same period.

Deductibility of share losses: ATO decision impact statement

ATO has issued a decision impact statement on the Full Federal Court decision in relation to whether a taxpayer's acquisition of shares was a part of a business operation.

ATO process for deceased estates: IGTO report

Inspector-General of Taxation and Taxation Ombudsman has released its report on the ATO's systems and processes for dealing with deceased estates.

Government considering bringing forward tax cuts

Government has flagged that it is looking at the timing of the legislated personal income tax cuts and may consider bringing them forward.

CGT improvement threshold for 2020-21

ATO has announced that the CGT improvement threshold for the 2020-21 income year is $155,849 which is up from 2019-20.

Commissioner's remedial power: situations considered but not applied

ATO has set out an index of situations and issues where the Commissioner's remedial power (CRP) has been considered but not applied.

Fourth person failed for Operation Elbrus

AFP and ATO have issued a joint release on the sentencing of an individual for her role in a syndicate alleged to have defrauded the Commonwealth.

Offshore tax evasion: reflections from J5 tax chiefs

ATO has released an update on the latest initiatives by the Joint Chiefs of Global Tax Enforcement (J5) in tackling transnational tax crime.

Tax agent sanctioned by TPB for professional conduct breaches

TPB has imposed sanctions on a tax agent following and investigation into alleged breaches of the Code of Professional Conduct.

TPB bans accounting company for misleading the ATO

TPB has reported that it has terminated the registration of a Victorian based company and imposed a maximum five-year ban.

Working from home deduction: shortcut rate extended

ATO has extended the shortcut rate of 80c/hr for claiming work-from-home running expenses until at least 30 September 2020.

Vic government announces more business support

Following Victoria’s renewed COVID-19 restrictions, the government has announced a further package of measures to support business and workers.

Banks to further extend loan repayment deferrals

Australian Banking Association has announced a new phase of support to assist customers to get back to making their loan repayments.

Accounting standard amended for COVID-19 rent concessions

AASB 16 has been amended to provide a practical expedient for lessees regarding the accounting under a lease for rent concessions due to COVID-19.

GST-free cars for disabled: medical practitioner certification

ATO has published a draft instrument which will ensure continued access to GST-free supplies of cars and car parts for certain disabled people.

JOBKEEPER Version 2

21 July 2020 update (subject to Government releasing Economic Response to the Coronavirus - JobKeeper Extension rule changes).

FINANCIAL SERVICES

CPD relief for financial advisers: instrument registered

FASEA has registered an instrument to give effect to its announcement to grant financial advisers an additional three months to meet their 40-hour CPD requirement.

COVID-19 loan repayment deferrals: APRA data released

APRA has published aggregated data showing that $266bn in loans have been granted temporary repayment deferrals due to COVID-19.

ASIC regulatory portal for relief applications

ASIC has announced that its Regulatory Portal will replace the current submission channels for submitting relief applications and various documents.

Financial reporting under COVID-19 conditions: ASIC focus areas

ASIC has announced its focus areas for financial reporting for the year ending 30 June 2020 in the COVID-19 environment.

SUPERANNUATION

Super tax surplus payments: APRA update

APRA has flagged that it will conduct a thematic review into super trustee reserving practices before decision on what actions may be necessary.

TPB bans tax agent for SMSF auditor number misuse

TPB has announced the termination and four-year ban of a Gold-Coast based tax agent following an investigation.

High Court special leave refused in Super Guarantee jockey cases

High Court has refused the taxpayers' application for special leave to appeal from the decisions relating to SG charge assessment issued to racing authorities.

REGULATOR NEWS

TPB reminds public to check if tax practitioners are registered

TPB has issued a reminder to the public to use its free online register of tax practitioners to check whether their tax agent is registered.

Board of Taxation CEO update

Board of Taxation CEO has provided an update following its meetings in June 2020, issues discussed include review of corporate tax residency rules.

TAXATION

Over $1bn tax refunds issued already

The Assistant Treasurer, Michael Sukkar, has welcomed a report by ATO that more than 457,000 individual refunds have been issued as at 14 July, totalling more than $1.08bn, with an average refund of $2,365. Compared to the same time last year, the ATO had issued 389,000 individual refunds, totalling more than $879m, with an average refund of $2,258. Around 1.7m individual lodgments have already been made for 2019-20, a 12% increase on the same time last year.

ATO's top three lodgement issues for 2019-20

The ATO has reported a 12% increase in lodgments of individual returns for 2019-20, as at 14 July, compared to the same period last year.

Assistant Commissioner, Karen Foat, said the ATO has seen the biggest 1 July ever, with ATO staff hard at work to ensure it could receive over 740,000 online lodgments on the day, ranging from income tax returns, to early release of super and JobKeeper applications. This is up from just over 100,000 online lodgments across the ATO's channels on 1 July 2019. So far, more than $1bn has been refunded to around 457,000 taxpayers, Ms Foat said.

The ATO also reminded taxpayers about easily avoidable errors that may slow down returns or might lead to an unexpected debt down the track. "While we're pleased that many early lodgers are getting it right, there are some trends in the issues we've been seeing," Ms Foat said. The ATO's Top three lodgment issues for tax time 2020 are:

- claiming multiple working from home methods for the same period – taxpayers are reminded that if they are claiming under the working from home shortcut method for 1 March-30 June 2020, they can't claim any other expenses for working from home for that period;
- copying and pasting last year's deductions – the ATO noted trends of taxpayers increasing deductions where they've spent more, like working from home, but forgetting to reduce claims in areas they have cut spending. Working reduced hours or not working at all means less or nil travel expenses or not wearing work uniform means nil laundry expenses;

- forgetting to include some income – taxpayers forgetting to include cash wages, foreign sourced income, or even gains from cryptocurrency can delay their returns, particularly when the ATO receives those income details from third parties whilst processing those returns.

Deductibility of share losses: ATO decision impact statement

The ATO has issued a decision impact statement (DIS) on the Full Federal Court decision in Greig v FCT [2020] FCAFC 25. In that case, a majority of the Full Court allowed the taxpayer's appeal after concluding that he had acquired shares in an ASX-listed company (Nexus Energy) as part of a "business operation or commercial transaction". As the taxpayer also had a profit-making intention in acquiring those shares, the Full Court said the Myer Emporium principle was engaged so that the share losses of $11.85m (and legal fees of just over $500,000) were deductible under s 8-1 of the ITAA 1997.

The Commissioner considers that the Full Court's decision was "finely balanced" and open on the particular facts of the case. However, the ATO maintains that the case does not change the principle in Myer Emporium. As such, the ATO said the decision does not disturb the Commissioner's understanding of the Myer Emporium principle or the factors that will be relevant in determining whether an acquisition of shares is made in carrying out a "business operation or commercial transaction".

Nevertheless, the ATO said it will review its existing public advice and guidance on the application of the Myer Emporium principle (including a review of TR 92/3 and TR 93/4) to ensure it reflects the Full Court's application of the principle in this case.

Comments are due by 7 August 2020.

ATO process for deceased estates: IGTO report

The Inspector-General of Taxation and Taxation Ombudsman (IGTO), Ms Karen Payne has released her report on the ATO's systems and processes for dealing with deceased estates – Death and Taxes: An Investigation Into Australian Taxation Office Systems And Processes For Dealing With Deceased Estates. The IGTO investigation sought to identify opportunities to improve tax administration for deceased individuals and their estates, to make it easier to engage with the ATO, and reduce unnecessary red tape and tax compliance.

The report covers deceased estate complaints to the IGTO since 2015, tax system administration identified during the investigation, the IGTO's key findings and recommendations (and the ATO's response to them). The report also highlighted improvements made by the ATO since the commencement of the IGTO's investigation.

"The end-of-life processes generally should ideally recognise this is a difficult and emotionally stressful time. Hence, in our Report we make 10 recommendations that should assist a surviving spouse and grieving family and their representatives to more easily navigate the tax administration system at this difficult time, Ms Payne said. The IGTO said the ATO had agreed in full, part, and in principle with the vast majority of the recommendations.

Government considering bringing forward tax cuts

The Treasurer, Josh Frydenberg, has flagged that the Government is looking at the timing of the legislated personal income tax cuts and may consider bringing them forward.

In an interview on 8 July 2020 with Sabra Lane on AM Radio, the Treasurer said there are three stages to the legislated income tax cuts whereby one big tax bracket between $45,000 and $200,000 will eventually be created with a marginal rate of no more than 30 cents in the dollar.

"So we are looking at that issue, and the timing of those tax cuts, because we do want to boost aggregate demand, boost consumption, put more money in people's pockets, and that is one way to do it", Mr Frydenberg said.

CGT improvement threshold for 2020-21

The ATO has announced that the CGT improvement threshold for the 2020-21 income year is $155,849 (up from $153,093 for 2019-20). The improvement threshold is relevant for determining if an improvement to a pre-CGT asset is treated as a separate asset for CGT purposes.

Commissioner's remedial power: situations considered but not applied

To provide additional transparency, the ATO has set out an index of situations and issues where the Commissioner's remedial power (CRP) has been considered but not applied. The CRP provides a mechanism for the Commissioner to modify the operation of tax law in circumstances where entities will benefit, or at least be no worse off, as a result of the modification. For example, the ATO index includes, among others, the following situations where the CRP was considered but not applied:

- FBT remote area housing - outdated census data;
- CGT liability for sale of rental property owned as joint tenants;
- CGT extension of main residence exemption for destroyed dwelling;
- Inheritance taxing point - CGT event E7;
- Taxation of monies received as a result of compensation payout;
- Simplified reporting for chain of entities to access relief for tax paid at trustee level;
- CGT transitional relief for unsegregated super funds;
- Excess non-concessional contributions and associated earnings.

Fourth person failed for Operation Elbrus

The Australian Federal Police (AFP) and the ATO have issued a joint release on the sentencing of Devyn Hammond for her role in a syndicate that is alleged to have defrauded the Commonwealth of more than $105 million over three years. The AFP said Ms Hammond was sentenced to 4 years jail (with a non-parole period of two years and six months).

Operation Elbrus was a 2017 investigation led by the AFP, with significant assistance from the ATO, into a large-scale and organised tax fraud conspiracy which revealed a group of people that used payroll services companies to divert PAYG withholding tax and goods and services tax owed to the ATO. Sixteen people were charged as part of Operation Elbrus, among them a former general manager of Plutus Payroll. Ms Hammond's sentencing marks the fourth sentencing outcome for the operation.

Offshore tax evasion: reflections from J5 tax chiefs

The ATO has released an ATO podcast, Tax inVoice - Episode 24, providing an update on the latest initiatives by the Joint Chiefs of Global Tax Enforcement (J5) in tackling transnational tax crime. The J5 countries (Australia, UK, US, Canada and the Netherlands) share information about common mechanisms, enablers and structures that are being exploited to commit transnational tax crime.

In Episode 24, ATO Deputy Commissioner and Australia's J5 Chief, Will Day, is joined by Simon York of HM Revenue and Customs, and Don Fort of IRS-Criminal Investigation Division. They discuss transnational tax crime, what the J5 is and how they are working together internationally to close the net on global tax evasion. This follows the J5 "day of action", launched on 24 January 2020, involving multi-country investigations into a financial institution located in Central America which is suspected of facilitating money laundering and tax evasion for a global customer base.

Mr Day said the ATO has already identified dozens of tax evasion investigations, looking at international enablers with links to multiple J5 jurisdictions. "While operational results matter, I've been most excited at the other benefits that this group's existence has provided," said Mr Fort in a separate IRS media release on 13 July 2020. Most recently, Mr Fort said a Romanian man was arrested in Germany last week and admitted to conspiring to engage in wire fraud and offering and selling unregistered securities in connection with his role in the BitClub Network, a cryptocurrency mining scheme worth at least US$722m. This plea was the first for a case under the J5 umbrella and stemmed from collaboration with the Netherlands during the "Challenge" in Los Angeles in 2019.

Tax agent sanctioned by TPB for professional conduct breaches

Following a complaint, the TPB investigated a tax agent and found that he allegedly failed to obtain a client's written authority to use his practice trust account to receive the client's tax refunds and then used the refunds to offset his fees. The TPB alleged the agent, the sole supervising tax agent of a registered company practice, had several practice management issues and failed to:

- have in place a written agreement (such as a letter of engagement) or obtain a written authority from clients to deduct fees for services from tax refunds;
- document client instructions and interactions;
- ensure the taxpayer's declarations were signed by clients prior to lodgment;
- issue invoices for services rendered promptly;
- duly pass on finalised copies of returns and notices of assessments to clients;
- account to clients for refunds received on their behalf.

The TPB also alleged that two of the agent's associated superannuation funds had several outstanding tax returns and tax debts. For breaching the Code of Professional Conduct (the Code), the Board Conduct Committee (BCC) imposed the following sanctions:

- a written caution for Code breaches, reminding him of his obligations regarding competency, practice management and supervision and control; and
- an order requiring the agent to: (i) lodge the outstanding tax returns for the associated superannuation fund entities within three months; (ii) pay or provide evidence of a payment arrangement for the tax debts of the above entities within three months; and (iii) complete and pass a course of education or training relating to practice management within six months and provide evidence of completion.

The TPB said the company tax agent was also sanctioned with a written caution reminding the company of its obligations regarding competency, practice management and supervision and control.

TPB bans accounting company for misleading the ATO

The Tax Practitioners Board (TPB) has reported that it has terminated the registration of Victorian based, The Associates Vic Pty Ltd, trading as Brown Baldwin and Associates (BBA), and imposed the maximum five-year ban.

Following a six-month investigation, the TPB allegedly found that BBA maintained two sets of financial accounts, one set for bank purposes and another for taxation purposes. According to the TPB, this led to misleading information being given to the Commissioner of Taxation and credit/finance companies. The TPB also alleged that BBA had failed to meet its outstanding tax obligations on several occasions and did not supervise its staff sufficiently to ensure that they were acting competently.

In addition, the TPB alleged that BBA assisted some of its clients to set up companies for the purpose of avoiding payment of debts and tax. Furthermore, the TPB said BBA's directors were responsible for the alleged misconduct of BBA, and had provided misleading information to the TPB.

Chair of the TPB, Ian Klug, alleged that BBA had consistently and flagrantly ignored the standards required to be a tax practitioner. "As a result of our investigation we concluded that the public could have no confidence that either the company or its directors will perform the functions of a registered tax agent either competently or with integrity", Mr Klug said.

Working from home deduction: shortcut rate extended

The ATO has extended, from 30 June 2020 to at least 30 September 2020, the "shortcut" rate outlined in Practical Compliance Guideline PCG 2020/3 for claiming work-from-home running expenses. As amended, PCG 2020/3 allows eligible taxpayers to claim additional running expenses incurred between 1 March 2020 and 30 September 2020 at the rate of $0.80 per work hour, provided they keep a record of the number of hours worked from home. Taxpayers eligible to use the shortcut rate are employees and business owners who:

- work from home to fulfil their employment duties or to run their business during the period from 1 March 2020 to 30 September 2020; and
- incur additional running expenses that are deductible under s 8-1 or Div 40 of the ITAA 1997.

Vic government announces more business support

Following Victoria's renewed COVID-19 restrictions, the Victorian Treasurer has announced a further package of measures to support businesses and workers in the state. This latest $534 million Business Support Package includes:

- Eligible businesses with payrolls up to $10 million can defer their payroll tax liabilities for the first half of the 2020-21 financial year.
- The Government will expand the Business Support Fund and provide more than 80,000 eligible businesses with a new $5,000 grant to support them through the renewed COVID-19 restrictions. This grant was previously made available to the 12 postcodes linked to outbreaks. It will now apply to all areas under Stage three restrictions.
- A $40 million capped fund for regional tourism businesses to cover the costs of refunds, as well as marketing campaigns to boost region to region visitation while Melbourne is locked down. Eligible operators will be able to claim up to $225 per night for up to five nights for each and every room cancelled due to the return of Stage three restrictions, provided they refund the booking in full.
- The Government will also establish a $20 million CBD Business Support Fund.

For more information, please refer to the IPA website.

Banks to further extend loan repayment deferrals

The Australian Banking Association (ABA) has announced a new phase of support to assist customers to get back to making their loan repayments. With the six-month loan repayment deferral period set to end on 30 September, the ABA said customers with reduced incomes due to COVID-19 will be eligible to apply for an extension of their deferral for up to four months.

A deferral extension of up to four months will not be automatic. It will only be provided to those who genuinely need some extra time. Bank customers with reduced incomes and ongoing financial difficulty due to COVID-19 will be contacted as they approach the end of their initial deferral period. Wherever possible, borrowers are expected to return to a repayment schedule through a restructure or variation to their loan.

ABA CEO, Anna Bligh, said many customers may need less than four months to either restructure their loan or get back into full repayments. Banks will work with

customers to find the best options to restructure or vary their loan.
Options may include: extending the length of the loan; converting to interest only payments for a period of time; consolidating debt; or a combination of these and other measures. If, during or at the end of any deferral, customers continue to be severely financially impacted and are unable to make repayments, Ms Bligh said they will be assisted through their bank's hardship process to determine the best long-term solution for their circumstances.

Accounting standard amended for COVID-19 rent concessions

Accounting Standard AASB 2020-4 Amendments to Australian Accounting Standards - Covid-19-Related Rent Concessions, has been registered to amend AASB 16 (Leases) to provide a practical expedient for lessees regarding the accounting under a lease for rent concessions granted due to COVID-19.

The amendment to AASB 16 permits lessees not to assess whether rent concessions that occur as a direct consequence of the COVID-19 pandemic and meet specified conditions are lease modifications and, instead, to account for those rent concessions as if they were not lease modifications. The amendment follows the IFRS changes in May 2020 to its Leases Standard (IFRS 16) to help entities account for COVID-19 rent concessions, such as rent holidays.

Date of effect: The Standard applies to annual periods beginning on or after 1 June 2020. Earlier application is permitted, including in financial statements not authorised for issue at the date this Standard was issued.

GST-free cars for disabled: medical practitioner certification

The ATO has published draft instrument, CRP 2020/D1 – Taxation Administration (Remedial Power - Certificate for GST-free supplies of Cars for Disabled People) Determination 2020. The instrument will modify the operation of s 38-510(1)(a) of the GST Act to ensure continued access to GST-free supplies of cars and car parts for disabled people who:

- have lost the use of one or more limbs to such an extent that they are unable to use public transport, and
- intend to use the car for personal transportation to or from gainful employment.

The critical change is that a registered medical practitioner will be able to issue a certificate, now titled "certificate of medical eligibility", to certify that the individual has lost the use of one or more limbs to such an extent that they are unable to use public transport. Previously certification was restricted to employees of a government owned corporation (MHS).

Comments are due by 10 August 2020.

JobKeeper Version 2

21 July 2020 update (subject to Government releasing Economic Response to the Coronavirus - JobKeeper Extension rule changes)

Good news is all enrolled participants have certainty until the end of September based on the existing rules. The JobKeeper wage subsidy program has been extended until March 2021, albeit at lower rates and with additional eligibility testing for small businesses and sole traders.

This will go a long way in not eroding confidence with JobKeeper. The extension beyond September is also welcome for two reasons.

Firstly it provides ongoing support for industries that are still impacted either directly or indirectly by restrictions put in place to curb the spread of COVID-19.

Secondly it becomes more targeted to those in need as it re-establishes a decline in turnover eligibility test to maintain access to the fixed wage subsidy for both the December 2020 and March 2021 quarter.

Revised eligibility tests – forecast no longer acceptable

Businesses will need to re-test turnover eligibility. It will require businesses to demonstrate an actual decline in revenue against a comparable period rather than forecasts.

Employers will be required to demonstrate their requisite turnover declined by the required amount for both the June and September quarters to be eligible for JobKeeper payments covering the December quarter.

Additionally, employers will need to demonstrate they also meet the turnover decline across the December quarter to remain eligible for JobKeeper payments through to March 28, 2021.

The only thing that is not clear is the term “actual GST turnover” referred to in the Treasury factsheets.

Hopefully there is no repeat of the turnover debacle we experienced as part of JobKeeper Version 1.

Under the existing rules turnover is the value of supplies made in the relevant period including GST-free supplies but excluding input-taxed supplies. Prior to the release of LCR 2020/1, the ATO’s website guidance, tweaked multiple times in a matter of weeks, failed to make it clear that the cash and accruals methods were concessionary methods, and did not make this clear until the release of the LCR. The LCR makes it abundantly clear that the law requires the taxpayer to allocate supplies made to each relevant period and then work out the value of the supply, and that accruals, cash and other accounting methods are practical, concessionary, fallback alternatives.

Two-tiered wage subsidy

With respect to the lower fixed wage subsidy, a two-tiered system removes some of the distortions particularly for casuals. There will now be two tiers of JobKeeper payments, delineated by how many hours eligible staff worked before the COVID-19 pandemic in February.

Some practical issues around what documentation is required to prove hours worked particularly for active participants will need to be provided in due course.

Lastly, no mention so far, addressing improving eligibility for new businesses that report GST quarterly that commenced making sales after 1 January 2020.

High level Summary

$1,500 / fortnight continues until 27 September 2020

Period	Full Time*	Part Time
28 September 2020 to 3 January 2021	$1,200	$750
4 January 2021 - 28 March 2021	$1,000	$650

* Full time

- Four weeks of pay periods prior to 1 March 2020 worked on average more than 20 hours / week
- Active Business participant in the month of February 2020 worked more than 20 hours / week

Eligibility

Period	Actual GST turnover decline (15/30/50%)
28 September 2020 - 3 January 2021	• **June 2020 quarter** (April, May and June 2020) and • **September 2020 quarter** (July, August and September 2020) Compared to 2019
4 January 2021 - 28 March 2021	• **June 2020 quarter** (April, May and June 2020) • **September 2020 quarter** (July, August and September 2020) and • **December 2020 quarter** (October, November and December 2020) Compared to 2019

FINANCIAL SERVICES

CPD relief for financial advisers: instrument registered

The Financial Adviser Standards and Ethics Authority (FASEA) has registered the Corporations (Relevant Providers Continuing Professional Development Standard) Determination (Amendment) 2020 to give effect to its announcement to grant financial advisers an additional three months to meet their 40-hour CPD requirement.

The instrument provides relief to relevant providers (financial planners and financial advisers) whose ability to complete the CPD requirements has been impacted by COVID-19. The relief enables relevant providers whose CPD year includes

18 March 2020 to count towards their CPD requirements for that CPD year any qualifying CPD activities they have completed during a period of three months after the end of that CPD year. Those activities may not be counted towards meeting the CPD requirements for any other year.

Date of effect: 16 July 2020.

COVID-19 loan repayment deferrals: APRA data released

APRA has published aggregated data showing that $266bn in loans have been granted temporary repayment deferrals due to COVID-19. In a letter to all banks, APRA has also provided an update on its regulatory approach to loans subject to repayment deferrals, and the temporary adjustment to the capital treatment of such loans where terms are modified or renegotiated, as outlined in the media release of 8 July 2020.

To provide greater transparency of temporary loan repayment deferrals, APRA said it will continue to update this aggregated data from the top 20 banks on a monthly basis. As at 31 May, the data shows that $266bn in loans have been granted temporary repayment deferrals. This represents 10% of the $2.6 trillion in total loans outstanding. Housing loans make up the majority of total loans granted repayment deferrals ($192bn), although small business loans have a higher incidence of repayment deferral with 18% of small business loans subject to repayment deferral ($56bn), compared with 11% of housing loans.

ASIC regulatory portal for relief applications

ASIC has announced that its Regulatory Portal will replace the current submission channels for submitting relief applications and various fundraising and corporate finance documents. From 27 July, the ASIC Regulatory Portal will become the central access point for ASIC's growing suite of regulatory services.

Details about the new portal transactions are available on the ASIC webpages for applications for relief and fundraising and corporate finance documents. The transactions will be ready to use in the portal from 27 July 2020. Anyone needing to use the portal to transact with ASIC will need to register their own account by selecting the "I just want to register" tile on the registration page.

ASIC said transactions are structured on the portal to make it easier for applicants to ensure the information ASIC requires is provided upfront. The status of transactions can also be tracked with messaging features that record correspondence with ASIC. Users can also invite others representatives and agents to act on their behalf in the portal.

Financial reporting under COVID-19 conditions: ASIC focus areas

ASIC has announced its focus areas for financial reporting for the year ending 30 June 2020 in the COVID-19 environment. "Entities with businesses adversely affected by the COVID-19 pandemic should focus on the reporting of asset values and financial position. Investors will expect clear disclosure about the impacts on an entity's businesses, any risks and uncertainties, key assumptions, management strategies and future prospects," said ASIC Chair, James Shipton. Given the adverse impacts on many entities from the COVID-19 pandemic, ASIC says directors, preparers and auditors should focus on:

- asset values;
- provisions;
- solvency and going concern assessments;
- events occurring after year end and before completing the financial report;
- disclosures in the financial report and Operating and Financial Review (OFR).

ASIC reminds entities facing uncertainties in future economic and market conditions that assumptions underlying estimates and assessments for financial reporting purposes should be "reasonable, supportable and realistic". ASIC also highlights the importance of disclosures in the financial report to investors such as uncertainties, key assumptions, sensitivity analysis, underlying drivers of the results, risks, management strategies and future prospects.

ASIC said it will be reviewing the full-year financial reports of about 200 larger listed entities and other public interest entities, as at 30 June 2020, focusing on those adversely affected by the current conditions as well as the adequacy of disclosure by those whose businesses have been positively affected.

ASIC has extended the deadline for both listed and unlisted entities to lodge financial reports under Chapters 2M and 7 of the Corporations Act by 1 month for certain balance dates up to and including 7 July 2020 balance dates, while recommending that entities should continue to lodge within the normal statutory deadlines in consideration of information needs of shareholders, creditors and other users of their financial reports, or to meet borrowing covenants or other obligations.

SUPERANNUATION

Super tax surplus payments: APRA update

APRA has flagged that it will conduct a thematic review into superannuation trustee reserving practices before deciding what action may be necessary in relation to the payment of superannuation fund tax surpluses to related entities.

The Hayne Royal Commission final report in February 2019 referred to APRA a matter involving payments of tax surpluses by Suncorp Portfolio Services Limited (SPSL) to Suncorp Life. APRA announced on 2 July 2020 that it has imposed licence conditions on SPSL after investigating matters referred to it by the Royal Commission in relation to the delayed transfer of members to MySuper products.

In respect of the additional referral on the payment of tax surpluses by SPSL to Suncorp Life, APRA said it will consider this issue further as part of a broader thematic review into trustee reserving practices in the super industry, before deciding what further action may be necessary.

TPB bans tax agent for SMSF auditor number misuse

The TPB has announced the termination and a four-year ban of a Gold-Coast based tax agent and his business following an investigation into more than 170 SMSF returns in which the tax agent claimed had been independently audited but were not, according to TPB investigations. Speaking about the case, TPB Chair, Ian Klug, said that the tax agent "has shown himself to be a risk to consumers" and that the alleged misconduct in this case "undermines the integrity of the entire SMSF regulatory regime".

The TPB also said that it has reviewed 74 tax agents referred to it by the ATO for potentially reporting incorrect SMSF Auditor Numbers but no further details were disclosed.

"SMSF trustees deserve to have confidence in the integrity of tax professionals. They expect them to accurately report their information to the ATO. By disregarding the strict rules, they are not only breaking the law but they are also letting down trustees who have entrusted their affairs to be handled professionally," said ATO Deputy Commissioner John Ford.

High Court special leave refused in Super Guarantee jockey cases

The High Court has refused the taxpayers' applications for special leave to appeal from the decisions of the Full Federal Court in FCT v Scone Race Club Limited [2019] FCAFC 225 and FCT v Racing Queensland Board [2019] FCAFC 224. In both cases, the Full Court had upheld the ATO's SG charge assessments issued to a NSW thoroughbred race club and Queensland's principal racing authority with respect to riding fees paid to jockeys.

The horse racing clubs had argued that they were not liable to make super contributions because they were not the employers of the jockeys, and only paid the riding fees to the jockeys on behalf of the owners for administrative purposes. The Full Court ruled in favour of the Commissioner and found that the racing clubs were liable to pay riding fees to jockeys for riding in a horse race. The racing clubs were therefore deemed to be their employers for the purposes of the Superannuation Guarantee (Administration) Act 1992 (SGAA).

REGULATOR NEWS

TPB reminds public to check if tax practitioners are registered

The TPB has issued a reminder to the public to use its free online register of tax practitioners at tpb.gov.au/onlineregister. This follows a recent case where an individual whose registration was terminated by the TPB for fraud and dishonesty, continued to operate by lodging 19 returns. The TPB put a stop to this conduct and noted that if the affected taxpayers had checked the TPB Register they would have found that the individual was not registered.

"We know that consumers place a large degree of trust in their practitioner but where the practitioner betrays that trust by putting their client's interests and integrity of the tax system at risk, we will not hesitate to take action against them," Chair of the TPB, Ian Klug said.

TPB tips for tax time 2020 include:

- check your tax practitioner is registered on the public register at tpb.gov.au/onlineregister;
- be careful if an agent offers to secure additional government stimulus payments as a result of COVID-19;
- never share a myGov password with anyone - doing so puts your personal information at risk; and
- don't allow anyone to lodge or prepare your tax return through your myGov account.

Board of Taxation CEO update

The Board of Taxation CEO has provided an update following its meetings in June 2020. Chair of the Board Rosheen Garnon congratulated Dr Julianne Jaques on her reappointment to the Board for a second three-year term.

The update highlighted the following:

- **Review of corporate tax residency rules** – the Board is close to finalising its review and is working closely with Treasury and the ATO in formulating the Board's recommendations;
- **Review of CGT rollovers** – the Board has resumed consultations, replacing previously scheduled face-to-face round-table consultations with video conferences. There were 7 consultations between 21 May and 5 June 2020, including two specialist consultations - one focused on SME issues and another on marriage breakdown rollovers. The Board has received 11 written submissions so far. The Board is still interested to hear from stakeholders with expertise in relationship breakdown rollover relief or the effect of death on CGT (Div 128 of ITAA 1997) and invites interested parties to email CGTrollovers@taxboard.gov.au;
- **Voluntary Tax Transparency Code** – the Board continues to encourage businesses to sign up to the voluntary code and continue to publish their reports following its framework of disclosures;
- **Sounding Board** – the Board invites the community to contribute ideas or suggestions for tax law simplification and improvement via its online collaborative platform - Sounding Board; and
- **Vale Paul Drum** – the Board extends its condolences to family and friends of Paul Drum.

The next meeting is scheduled for 10 July 2020.