TAXATION

Missing income main reason for delayed refunds

According to the ATO, forgetting to include income in a tax return is the number one reason refunds are delayed in July.

IGTO report: investigations of undisputed tax debts

Inspector-General of Taxation and Taxation Ombudsman has released a report of its investigation into undisputed tax debts from 2016 to 2020.

Virtual AGMs and digital signature rules: draft legislation

Treasury has released draft legislation to make virtual AGMs and digital signature rules permanent.

ATO to launch new service to attract foreign businesses

Treasury has issued a media release stating that the ATO will launch its new investment engagement service to provide foreign investors with objective information.

Intergenerational report 2021 released

Treasury has released the 2021 intergenerational report projecting a slower pace of economic growth over the next 40 years.

Effective life of depreciating assets from 1 July 2021

ATO has registered a Determination that provides taxpayers in specific industries with effective lives as a basis to calculate the decline in value.

ATO data matching reporting for platform operators: draft legislation

Treasury has released draft legislation that proposes amendments to require electronic platform operators to provide information on transactions to the ATO.

Financial reporting thresholds for charities to be increased

Government has announced it will increase the financial reporting thresholds for small and medium charities from 1 July 2022.

Measures (No 4) Bill 2021 receives Assent

Bill to implement various measures including FBT exemption for retraining, LMITO, and granny flat CGT exemptions has received Royal Assent as Act No 72 of 2021.

COVID-19 economic response Bill receives Assent

Bill to implement tax-free status of State recovery grants and disclosure of tax information related to COVID-19 payments had received Royal Assent.

Measures (No 3) Bill receives Assent

Bill to implement changes to Medicare levy low-income thresholds and other miscellaneous measures has received Royal Assent.

Effective life of depreciating assets from 1 July 2021

ATO has released its annual ruling on the effective life of depreciating assets including new assets used in horse training (racing) and salt-harvesting activities.

Reasonable travel and overtime meal allowance amounts 2021-22

ATO has released its annual ruling on the amounts the Commissioner treats as reasonable for 2021-22 re employee claims for overtime meal expenses and travel expenses.

Board of Taxation review: GST on low value imported goods

Government has announced that it has asked the Board of Taxation to review the collection of GST on low value imported goods.

GST-free status for certain supplies to NDIS participants extended

A determination has been registered that specifies the kinds of supplies that are GST-free to participants of NDIS.

FINANCIAL SERVICES

APRA supervisory levy determination 2021-22

APRA has registered a determination which sets the financial institutions supervisory levies for the 2021-22 financial year.

Regulation of financial advisers; new disciplinary body

TPB has released a news article highlighting a recent Bill to establish a new disciplinary system for financial advisers.

AFCA financial complaints for 2020-21

Australian Financial Complaints Authority has reported that it received 70,510 complaints in 2020-21.

Financial Regulator Bills receive Assent

Bills to establish the framework for the Financial Regulator Assessment Authority has received Royal Assent.

SUPERANNUATION

Super guarantee rate for pay periods spanning 1 July 2021

ATO has reminded employers that the rate used to calculate SG contributions has increased from 9.5% to 10% on 1 July 2021.

SMSF membership increase: interim solution

ATO has provided an interim solution from 1 July 2021 for those taxpayers that want to add a fifth or sixth member to their SMSF.

Super lump sums paid to former ADF members

ATO has registered an instrument setting out an alternative method for calculating the tax-free and taxable component of a super benefit.

Super pension drawdowns: 50% reduction extended

Regulations have been registered to extend the temporary 50% reduction in minimum annual payment amounts for super pensions and annuities for a further year.

SMSF membership limit increase

Regulations have been registered to make consequential amendments following the increase in maximum number of members for SMSFs and small APRA funds.

REGULATOR NEWS

Taxpayers reminded to use only registered agents

TPB has reminded taxpayers to use only registered agents and highlighted the dangers of assuming all tax agents are registered.

Proof of identify requirements: TPB Q&A

TPB has released a Q&A on proof of identity requirements including verification methods and identity requirements for existing and new clients.

Board of Taxation June 2021 CEO update

Board of Taxation has issued its June 2021 CEO update including information on modernisation of individual residency rules.

TAXATION

Missing income main reason for delayed refunds

Forgetting to include income in a tax return is the number one reason ATO refunds are delayed in July. Assistant Commissioner, Tim Loh, said many taxpayers are eager to get their hands on their tax refund with over 172,000 individual 2021 tax lodgments on 1 July. However, he warned that racing to lodge a return can often lead to easily avoidable mistakes.

Mr Loh said that waiting until the end of July to lodge allows the ATO to prefill information into a taxpayer's return from employers (usually by 14 July), banks, private health insurers and government agencies. The ATO said it can usually process refunds in under two weeks but it may take longer if the ATO needs to address any obvious mistakes. The ATO said it typically adjusts more than 230,000 returns using third-party data. Many people that lodge before this data is available fail to include all their income and as a result need to repay part or all of their refund, Mr Loh said.

The next most common delay to paying a tax refund is that the ATO doesn't know where to send the tax refund because the taxpayer has forgotten to check and update their bank account details in the rush to lodge. While taxpayers can check the status of their return through ATO online services (accessed through myGov) or using the ATO app, there is no way to speed up this process, Mr Loh said.

IGTO report: investigations of undisputed tax debts

The Inspector-General of Taxation & Taxation Ombudsman (IGTO) has released its report, An investigation and exploration of undisputed tax debts in Australia. The report covers off data received from the ATO relating to undisputed tax debts from FY16 to FY20.

The report highlights two key findings:

- Payment plan arrangements have been reducing across all taxpayer groups (individuals, small and large business) - the IGTO stated that this report should also serve as a reminder to taxpayers that a payment plan is available when assistance is needed; and

- Collectible tax debts are increasing faster than tax liabilities - the report shows that even pre-COVID, undisputed tax debts have been trending higher demonstrated by the increase of tax debts by 38% in the three years from FY16 to FY19 against an increase in tax liabilities of about 16%. For the four-year period to FY20, including the effects of COVID-19, undisputed tax debts increased to almost 78% against an increase in tax liabilities of slightly over 16%.

The report does not seek to explain the increase in collectible tax debts but the IGTO does indicate that a small percentage of debt accounts represent a significant value and percentage of outstanding collectable debts. IGTO said that it will look further into the details of the collectible tax debt increase in Phase two of the investigation (this report forms Phase one of the enquiry).

The report includes five recommendations to the ATO, from the findings in Phase one, mostly in the aspect of reporting and governance in the ATO 's debt collection activities. The ATO's response can be found in Appendix B of the report.

Virtual AGMs and digital signature rules: draft legislation

Treasury has released exposure draft Treasury Laws Amendment (Measures for Consultation) Bill 2021: Use of technology for meetings and related amendments. It looks to create a permanent statutory mechanism for the electronic execution of company documents. The draft is important as the current measures to allow companies and registered schemes to hold virtual meetings and sign documents electronically are temporary and will end on 15 September 2021.

The draft Bill will make changes to the Corporations Act 2001 to allow companies to execute documents electronically. The draft Bill will also include provisions that allow all companies and registered schemes to hold physical and hybrid meetings. Wholly virtual meetings may also be held under certain circumstances.

Proposed date of effect: The proposed changes aim to repeal the sunsetting provision of the Treasury Laws Amendment (2021 Measures No 1) Bill 2021, ie so that the measures will apply permanently from 15 September 2021.

Submissions are due by 16 July 2021.

ATO to launch new service to attract foreign businesses

Treasury has issued a media release stating that the ATO will launch its New Investment Engagement Service (NIES) on 1 July 2021. The purpose of the NIES is to provide foreign investors with objective information, promote confidence and assist in understanding potential tax risks arising from their proposed investment structures prior to the execution.

The NIES will offer foreign investors opportunities for "tailored engagement services" with ATO specialists. The NIES will also be providing "customised guidance" and improve the process for foreign businesses looking to invest in Australia.

The NIES will be made available to all foreign businesses that come through the Global Business and Talent Attraction Taskforce and other Australian and foreign businesses making new investments into Australia in the vicinity of $250 million or more.

Intergenerational report 2021 released

Treasury has released the 2021 Intergenerational Report projecting a slower pace of economic growth over the next 40 years. Treasury said COVID-19 has not displaced the pre-existing demographic, technological and other trends that will continue to shape the long-term economic outlook.

Australia's total population is projected to reach 38.8 million in 2060-61. It was previously projected to reach 39.7 million by 2055. This slower population growth (due to lower migration and fertility) is the main reason for the slowdown in economic growth. The population will continue to age with 23% of the population projected to be over 65 in 2060-61. The ratio of working-age people to those over 65 is also projected to fall from 4.0 to 2.7.

Real gross domestic product (GDP) is projected to grow at 2.6% per year over the next 40 years (compared with 3.0% over the past 40 years). While the Budget deficit is expected to improve as the economy recovers, it is projected to remain in deficit by 2060-61, reflecting growth in spending on health, aged care and interest payments.

The economic projections assume that the labour productivity growth rate converges to 1.5% per year - consistent with the 30-year historical average. Treasury said that achieving this assumption will require an improvement in productivity (which has recently averaged 1.2%). To this end, Treasury said Government policies will need to assist in lifting productivity, including by helping individuals and businesses take advantage of new technologies. If Australia is to maintain its living standards, the Treasurer said the Government has no alternative other than to pursue economic reform, "much of which is hard and contested".

Effective life of depreciating assets from 1 July 2021

The ATO has registered the Income Tax (Effective Life of Depreciating Assets) Amendment Determination (No 1) 2021. Made under s 40-100(1) of the ITAA 1997, it commences on 1 July 2021 and provides taxpayers in specific industries and for specific assets with effective lives as a basis to calculate the decline in value (depreciation) of a depreciating asset for income tax purposes.

ATO data matching reporting for platform operators: draft legislation

Treasury has released Exposure Draft - Treasury Laws Amendment (Measures for Consultation) Bill 2021: Introducing a sharing economy reporting regime. The draft proposes amendments to the TAA to require electronic platform operators to provide information on transactions facilitated through their platforms to the ATO. This will facilitate the ATO with pertinent information for data matching purposes.

The reporting regime is proposed to apply to transactions that relate to the supply of:

- ride-sourcing and short-term accommodation from 1 July 2022; and
- asset sharing, food delivery, tasking-based services and other services (except for transactions where only the title or ownership of goods or real property are exchanged, and relating to financial supplies) from 1 July 2023.

Proposed date of effect: The first day of the quarter following Royal Assent.

Submissions are due by 2 August 2021.

Financial reporting thresholds for charities to be increased

The Government has announced that it will increase the financial reporting thresholds for small and medium charities from 1 July 2022 (reporting against 2021-22 financial year).

Assistant Treasurer Michael Sukkar said the increase in the financial reporting thresholds for small and medium charities registered with the Australian Charities and Not-for-profits Commission (ACNC) have been agreed to by the Council on Federal Financial Relations. The changes include:

- financial reporting thresholds for small charities will increase to under $500,000 annual revenue;
- financial reporting thresholds for medium-sized charities will increase to under $3 million annual revenue;
- large charities with two or more key management personnel will be required to report remuneration paid to responsible persons (directors) and senior executives on an aggregated basis in their 2022 Annual Information Statement; and
- from 1 July 2023, all charities will be required to report related party transactions in their annual reporting to the ACNC.

Measures (No 4) Bill 2021 receives Assent

The Treasury Laws Amendment (2021 Measures No 4) Bill 2021 has received Assent as Act No 72 of 2021. It contains the following tax-related measures:

- FBT exemption for certain retraining expenses from 1 October 2020;
- low and middle income tax offset (LMITO) extended to include 2021-22;
- exempting granny flat arrangements from CGT, with the start date dependent on when the Bill gets assent, ie 1 July 2021 or 1 July 2022;
- NZ taxing to retain taxing rights over NZ sports teams and support staff for those stuck in Australia due to COVID-19 travel restrictions;
- extension of the junior minerals exploration incentive to cover 2021-22 to 2024-25; and
- amendments to ASIC product intervention regime, a measure that has not been previously announced and which will apply from the date of assent.

COVID-19 economic response Bill receives Assent

The Treasury Laws Amendment (COVID-19 Economic Response) Bill 2021 has received Assent as Act No 71 of 2021. It contains two previously unannounced measures which will take effect from the date of assent:

- tax-free status of State recovery grants extended to 2021-22; and
- disclosure of tax information related to COVID-19 Disaster Payments.

Measures (No 3) Bill receives Assent

The Treasury Laws Amendment (2021 Measures No 3) Bill 2021 has received Royal Assent as Act No 61 of 2021. It contains measures that (i) make changes to the Medicare levy low-income thresholds; (ii) exempt annual and lump sum payments made by the Commonwealth to Thalidomide survivors from income tax; (iii) make disaster recovery grant payments in relation to the storms and floods; and (iv) grant deductible gift recipient status on a number of worthy entities.

Effective life of depreciating assets from 1 July 2021

The Commissioner's annual ruling on the effective life of depreciating assets has been released. TR 2021/3 includes new effective life determinations for assets used in horse training (racing) and salt-harvesting activities.

TR 2021/3 replaces TR 2020/3, which applied in 2020-21 and has now been withdrawn.

Date of effect: 1 July 2021.

Reasonable travel and overtime meal allowance amounts 2021-22

The ATO has released its annual ruling on the amounts the Commissioner treats as reasonable for 2021-22 in relation to employee claims for:

- overtime meal expenses - the reasonable amount is $32.50;
- domestic travel expenses. Reasonable amounts are provided for three salary levels for: (i) short-stay accommodation in commercial establishments; (ii) meals (breakfast, lunch and dinner); and (iii) deductible expenses incidental to travel;

- meal expenses for employee truck drivers in receipt of a travel allowance and required to sleep (take their major rest break) away from home - the reasonable amounts are $26.15 (for breakfast), $29.85 (for lunch) and $51.50 (for dinner); and
- overseas travel expenses. Reasonable amounts are provided for three salary levels for: (i) meals (breakfast, lunch and dinner); and (ii) deductible expenses incidental to travel.

Date of effect: 1 July 2021.

Board of Taxation review: GST on low value imported goods

The Government has announced that it has asked the Board of Taxation (BoT) to review the collection of GST on low value imported goods and ensure the system is operating as intended. The Government considers it timely for the review given the GST on low value imported goods has been in place since 1 July 2018.

The BoT has been asked to consider:

- the effectiveness of the Low Value Imported Goods regime to efficiently collect GST; and
- any relevant international developments and experiences regarding the collection of GST and other consumption taxes.

See terms of reference for more details.

GST-free status for certain supplies to NDIS participants extended

The Government has registered legislative instrument A New Tax System (Goods and Services Tax) (GST free Supply—National Disability Insurance Scheme Supports) Determination 2021. The purpose of this instrument is to repeal and replace the current GST-free Supply (National Disability Insurance Scheme Supports) Determination 2017 to extend the effect of the application of the 2017 Determination to 30 June 2025.

The Determination specifies which kinds of supplies to a participant of the National Disability Insurance Scheme (NDIS) are GST-free, subject to the supply meeting the other conditions prescribed by s 38-38 of the GST Act. The Determination does not make any substantive changes to the operation of the 2017 Determination.

Date of effect: 1 July 2021.

FINANCIAL SERVICES

APRA supervisory levy determination 2021-22

The Australian Prudential Regulation Authority Supervisory Levies Determination 2021 has been registered which sets the financial institutions supervisory levies for the 2021-22 financial year.

Under the superannuation supervisory levy, the restricted component of the 2021-22 levy will be calculated at 0.00390% of assets held by the entity, subject to a minimum of $7,500 and a maximum of $800,000 for superannuation funds other than small APRA funds (SAFs) or pooled superannuation trusts.

The unrestricted component of the 2021-22 levy will be calculated at 0.002925% of assets held by the entity. SAFs will be levied a flat amount of $590 per fund.

Date of effect: 1 July 2021.

Regulation of financial advisers; new disciplinary body

The TPB has released a news article highlighting the recent Bill to establish a new disciplinary system for financial advisers. The Financial Sector Reform (Hayne Royal Commission Response - Better Advice) Bill 2021, proposes to implement recommendation 2.10 of the Banking Royal Commission to establish a single disciplinary body for financial advisers and require the registration of all financial advisers who provide personal financial advice to retail clients. The Financial Services and Credit Panel within ASIC will operate as the single disciplinary body for financial advisers.

If the Bill passes Parliament, it means that from 1 January 2022 financial advisers who provide tax (financial) advice services for a fee will no longer need to register with the TPB as a tax (financial) adviser. Therefore, the TPB said that it will only be able to accept registration renewal applications up to and including 31 December 2021. Any registered tax (financial) adviser registered with the TPB as on 1 January 2022 will be deemed to be registered with ASIC until their TPB registration expires - they will need to renew their registration with ASIC. The TPB has also put up an FAQ on the proposed changes.

AFCA financial complaints for 2020-21

The Australian Financial Complaints Authority (AFCA) has reported that it received 70,510 complaints in 2020-21 in relation to banks, insurers, super funds, investment firms and financial advisers. Overall, complaints were down 12% on 2019-20.

AFCA's Chief Ombudsman, David Locke, said the most complained about product in 2020-21 was credit cards (14% of all complaints) followed by home loans (9%) and personal transaction accounts (8%). For superannuation, there were 856 complaints about delays in claim handling, 517 for denial of a claim, service quality (517), account administration error (487) and incorrect fees/costs (419).

The past 12 months also included 165 complaints related to insurance cover for business interruption associated with COVID-19. More complaints are expected in the coming year, once the second of two test cases brought by the insurance industry is resolved, Mr Locke said.

Financial Regulator Bills receive Assent

The Financial Regulator Assessment Authority Bill 2021 and Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Bill 2021 has received Royal Assent as has received Assent as Act Nos 63 and 64 of 2021, respectively. These legislations establish the framework for the Financial Regulator Assessment Authority (FRAA) to assess the effectiveness and capability of each of APRA and ASIC, as recommended by the Banking Royal Commission.

SUPERANNUATION

Super guarantee rate for pay periods spanning 1 July 2021

With the super guarantee (SG) rate increased from 9.5% to 10% on 1 July 2021, the ATO has reminded employers that the rate used to calculate SG contributions depends on which quarter the employee is paid in by the employer. It doesn't matter if the work is performed in a different quarter.

This means that employers need to calculate SG contributions at the rate of 10% on all salary and wages "paid" to employees on and after 1 July 2021. The 9.5% rate applies to salary and wages paid to employees before 1 July 2021. For example, if a fortnightly pay period started on 24 June 2021 and ends 7 July 2021, if the employee is paid (say $4,500) on 8 July 2021, the ATO says the minimum SG contribution for that pay period is 10%, ie $4,500 x 10% = $450.

SMSF membership increase: interim solution

From 1 July 2021, SMSFs and small APRA funds can have up to six members following legislative amendments. The ATO said it is currently implementing the necessary system changes to enable SMSFs to add members five and six to their fund through the Australian Business Register (ABR). The ATO recommends that SMSFs should wait until the ABR has been updated before registering or updating their fund with more than four members.

For SMSFs unable to wait until the ABR has been updated, the ATO has provided the following interim solution from 1 July 2021 that can be used to add a fifth or sixth member:

- Register the SMSF through the ABR adding members one to four.
- Complete and lodge a Change of Details for superannuation entities form (NAT 3036) to provide the details of member/s five and six.
- The ATO will then process this into ATO systems and update the ABR once the required system changes have been made. SMSF trustees will not be required to do anything further.

Super lump sums paid to former ADF members

The ATO has registered Legislative Instrument - MS 2021/1 - setting out a pre-1 July 2021 alternative method for calculating the tax free component and taxable component of a superannuation benefit that, following the decision in FCT v Douglas [2020] FCAFC 220, is a superannuation lump sum under s 307-125 of the ITAA 1997 and which is paid as a pension in accordance with certain provisions of:

- the Defence Force Retirement and Death Benefits Act 1973; and
- the Military Superannuation and Benefits Rules (as referred to in s 4 of the Military Superannuation and Benefits Act 1991).

Date of effect: The instrument applies to benefits paid before 1 July 2021.

Super pension drawdowns: 50% reduction extended

The Superannuation Legislation Amendment (Superannuation Drawdown) Regulations 2021, has been registered to amend the SIS Regulations to give effect to the Government's announcement on 29 May 2021 to extend the temporary 50% reduction in minimum annual payment amounts for superannuation pensions and annuities by a further year to 30 June 2022.

For the purposes of determining the minimum payment amount for an account-based pension or annuity for the financial years commencing 1 July 2019, 1 July 2020 and 1 July 2021, the minimum payment amount is half (50%) of the amount worked under the formula in clause 1 of Sch 7 of the SIS Regs. For market linked income streams (MLIS), the minimum payment amount for the financial years commencing 1 July 2019, 1 July 2020 and 1 July 2021 must be not less than 45% (and not greater than 110%) of the amount determined under the standard formula in clause 1 of Sch 6 of the SIS Regs.

SMSF membership limit increase

The Treasury Laws Amendment (Self Managed Superannuation Funds) Regulations 2021 make consequential amendments to the SIS Regulations following the increase in the maximum number of members for SMSFs and small APRA funds (SAFs) by the Treasury Laws Amendment (Self Managed Superannuation Funds) Act 2021. From 1 July 2021, an SMSF or SAF is permitted to have "no more than six members" (instead of "fewer than five members").

Date of effect: 1 July 2021.

REGULATOR NEWS

Taxpayers reminded to use only registered agents

The Tax Practitioners Board (TPB) has issued a media release reminding taxpayers to make sure they use registered tax agents. This tax time the TPB is recommending taxpayers to use its guide "take the guesswork out".

TPB highlighted the dangers of assuming that all tax agents are registered, citing a recent Federal Court case where a de-registered tax agent allegedly continued to receive tax refunds on behalf of his clients and funnelled the funds to his personal bank account. This highlights the importance of checking the registration of tax agents when uncertain of the legitimacy of tax agents through the TPB's register.

Proof of identify requirements: TPB Q&A

The Tax Practitioners Board (TPB) has released a Q&A compiled during its webinar - Proof of identity requirements. The Q&A is split into the following categories:

- Verification methods;
- Proof of identity requirements for existing clients;
- Proof of identity requirements for new clients;

- Verifying a client's identity remotely;
- Saving proof of identity documents and record keeping;
- Verifying a client's identity without conventional identity documents; and
- Compliance.

As a reminder, the TPB's guidance on proof of identity is currently in draft form and is subject to change.

Board of Taxation June 2021 CEO update

The Board of Taxation has issued its CEO Update - June 2021. The update highlights the Board's release of its consultation guide for the Research and Development Tax Incentive (R&DTI)- Review of the dual-administration model. The Guide seeks to understand experiences of the R&DTI registration and claiming process as well as considering opportunities to streamline existing administrative functions or process. A series of roundtable consultations have also been planned (both virtual and in-person).

The update also provides a brief on its last meeting in May, covering topics such as:

- Budget 2021-22;
- modernisation of individual residency rules;
- finalisation of the corporate collective investment (CCIV) component of the new suite of collective investment vehicles announced in 2016-17 Budget;
- the review into the administrative framework of the R&DTI before the end of 2021; and
- the announcement of the Patent Box concession for Australian medical and biotechnology innovations.