

TAXATION

Small Business lodgement penalty amnesty program

The small business lodgement penalty amnesty program allows you to bring your outstanding tax returns and business activity statements (BAS) up-to-date.

Tax time – Agent Client verification methods

The ATO have published updated guidance on Agent Client Verification methods ahead of tax time, which provides additional information on how agents can complete client verification when using the ATO's systems.

ATO target areas this tax time

The ATO has issued a media release setting out its three focus areas for what it terms "this tax time".

Requirement to lodge 2023 tax and other returns

The ATO has issued a draft instrument which covers income tax returns and other lodgments.

HELP repayment thresholds and rates

Government has updated the repayment incomes and repayment rates for the Higher Education Loan Program for the 2023-24 income year.

TPB: sanctions on tax agents

Tax Practitioners Board has advised that it has recently imposed sanctions on two tax agents.

TPB: alleged fraud leads to termination

Tax Practitioners Board has advised that it has terminated a tax agent's registration on the basis of alleged fraudulent behaviour.

DIS: meaning of "school"

ATO has released a decision impact statement on the decision of the Federal Court in a case which rejected ATO's interpretation of the word "school".

NSW: legislation to abolish annual property tax

NSW has introduced legislation to repeal the former government's first home buyer choice scheme.

2023-24 Victorian State Budget

The Victorian State Budget for 2023-24 has been handed down and includes a number of measures related to property tax, COVID debt levy, payroll tax, and insurance duty.

2023-24 Tasmania State Budget handed down

The Tasmanian State Budget for 2023-24 has been handed down with no major changes or announcements.

GST

LCT threshold and fuel-efficient car limits

The ATO has issued a media release setting out the luxury car tax (LCT) thresholds for the 2023-24 income year. _

FINANCIAL SERVICES

APRA fees and levies for 2023-24 discussion paper

Treasury and APRA have combined to issue a discussion paper which seeks submissions on the proposed financial institutions supervisory levies for the 2023-24 financial year.

Recovery and exit planning: APRA prudential standards

APRA has issued a release stating that it finalised some prudential standards aimed at ensuring APRA-regulated entities are better prepared.

SUPERANNUATION

Definition of employee clarified for work test

Government has registered a legislative instrument which ensures that all individuals aged 67 to 75 years who are employees are still eligible to claim personal deductions.

APRA review of Your Super, Your Choice amendments

APRA has released its review of the Your Choice, Your Super legislation concluding that there have been no unintended consequences identified.

AFCA jurisdiction to hear super complaints

Treasury has released draft regulations that will ensure AFCA is able to hear all superannuation complaints.

APRA quarterly statistics: March 2023

APRA has released its quarterly super performance publication and the quarterly MySuper Statistics report for March 2023.

REGULATOR NEWS

New temporary chair for Tax Practitioners Board

Government has appointed a new temporary chair for the Tax Practitioners Board with effect from 18 May 2023.

Super data transformation Phase two roadmap consultation delayed

APRA has announced that formal consultation on reporting standards under Phase two of the SDT project will be delayed.

Superannuation data transformation FAQ update

APRA advises that it has published updates to its frequently asked questions on the superannuation data transformation project.

TAXATION

ATO target areas this tax time

The ATO has issued a [media release](#) setting out its three focus areas for what it terms "this Tax Time", ie the lodgement of 2022-23 returns.

The first area is rental property deductions. The ATO states that it will look at rental income being left out or mistakes being made with property-related deductions. The ATO will also be focused on interest expenses and ensuring that rental property owners understand how to correctly apportion loan interest expenses where part of the loan was used for private purposes (or the loan was re-financed with some private purpose).

The second category relates work-related expenses. The ATO focuses on the changes to the work from home rates in the context of more people returning to offices than before. The revised rules for this year are set out in PCG 2023/1. The media release states that to claim working from home expenses as a deduction, taxpayers can use the actual cost, or the revised fixed rate method, as long as they meet the eligibility and record-keeping requirements.

The third category is CGT. The release addresses the main residence exemption in the context of service entities like Airbnb and Stayz. It states that such income producing activity may have a CGT implication. It also notes that all assets should be accounted for, ie "don't fall into the trap of thinking we won't notice if you sell an asset for a gain and don't declare it".

Requirement to lodge 2023 tax and other returns

The ATO has issued the draft instrument entitled the [Notice of Requirement to Lodge a Return for the Income Year Ended 30 June 2023](#) (F2023L00533) which covers income tax returns and other lodgments for:

- franking account returns, including special rules for late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability;
- venture capital deficit tax returns;
- ancillary fund returns;
- trustees of SMSFs;
- member information statements by superannuation providers.

The ATO also issued the instrument entitled the [Notice of Requirement for Parents with a Child Support Assessment to Lodge a Return for the Income Year Ended 30 June 2023](#) (F2023L00538). It requires liable and recipient parents under a child support assessment to lodge an income tax return for the income year, by the due date specified in the instrument. Such persons may not otherwise be required to lodge an income tax return.

HELP repayment thresholds and rates

The Government has [updated](#) the repayment incomes and repayment rates for the Higher Education Loan Program (HELP) for the 2023-24 income year. The minimum repayment income for the 2023-24 income year is \$51,550 and phases to a 10% repayment rate at \$151,201 and above. The income levels and repayment rates for 2023-24 are listed in detail in the release.

In a similar vein, the ATO [recently posted](#) the study and training loan indexation rates for 2023. This is applied to the part of an accumulated study and training loan that has remained unpaid for more than 11 months, for things like HELP and VET Student Loan etc. The indexation rate for 2023 is 7%, up from 0.6% in 2021 and 3.9% in 2022.

TPB: sanctions on tax agents

The Tax Practitioners Board has advised that it has recently imposed sanctions on two tax agents.

In the [first case](#), a tax agent company was investigated following an ATO audit. The TPB uncovered poor internal controls within the practice and concluded that the practice failed to take reasonable care in the preparation and lodgement of income tax returns on behalf of their clients. The TPB decided to issue a written caution and an order requiring the director and supervising agent to complete the National Tax & Accountants' Association (NTAA) Tax Skills one course within three months. It took into consideration that the supervising agent responsible for the misconduct had been "terminated" and the company had since made changes to its processes and procedures.

In the [second matter](#), a tax agent lodged a personal income tax return to the ATO claiming deductions in excess of \$100,000, which could not be substantiated. The ATO compliance audit resulted in a tax shortfall of \$60,000 and a penalty for recklessness was imposed. The TPB found the agent had ceased to be a fit and proper person and terminated the registration.

TPB: alleged fraud leads to termination

The Tax Practitioners Board [advises](#) that it has terminated a tax agent's registration on the basis of alleged fraudulent behaviour relating to R&D tax offsets. Its investigation was triggered by a referral from the ATO.

The TPB states that it discovered breaches of "multiple items" of the Code of Professional Standards, which are detailed in the release. The seriousness and repeated nature of the agent's conduct were persuasive factors.

DIS: meaning of "school"

The ATO has released a [Decision Impact Statement](#) on the decision of the Federal Court in *The Buddhist Society of Western Australia Inc v FCT* (No 2) [2021] FCA 1363.

Briefly, in that case, the Federal Court rejected the ATO's interpretation of the word "school" when setting aside the ATO's decision to revoke the Society's status as a deductible gift recipient. In rejecting the ATO's requirement (set out in TR 2013/2) for "regular, ongoing and systematic instruction", McKerracher J also pointed out that the ordinary meaning of "school" does not require the course of education to be vocational, as opposed to recreational.

The DIS accepts that the views expressed in TR 2013/2 do not reflect the ordinary meaning of the term "school", as per the decision. Further, the DIS states that the ATO agrees with his Honour's views that the ordinary meaning of school does not require a course of education to be "vocational as opposed to recreational". Therefore, "the focus will be the activities carried out to determine if instruction is being given in an activity or area of knowledge".

The ATO states that it will update TR 2013/2 and invites comments "if you feel this decision has consequences we have not identified".

NSW: legislation to abolish annual property tax

The NSW has introduced legislation to repeal the former Government's First Home Buyer Choice ("FHBC") scheme. The FHBC scheme offers a choice between stamp duty or a lower, annual property tax.

The [First Home Buyer Legislation Amendment Bill 2023](#) will close off access to the FHBC scheme on Saturday 1 July 2023. There are "grandfathering" provisions so first home buyers who opted into the annual property tax can continue to pay that tax until they sell their property.

In its place, under changes to the First Home Buyers Assistance scheme, the threshold for stamp duty exemptions for first home buyers will be lifted from \$650,000 to \$800,000 and stamp duty concessions from \$800,000 to \$1 million. The Premier [states](#) that any property purchased under \$800,000 will have no stamp duty, and any property purchased up to \$1 million will have a reduced rate.

2023-24 Victorian State Budget

The Victorian State Budget for 2023-24 has been [handed down](#). It contains a number of important State taxes-related changes and proposals.

Property tax to replace stamp duty for commercial and industrial properties

The Government proposes to phase out stamp duty for commercial and industrial properties. The transition will occur after the next sale, with the annual property tax applying 10 years after the sale. The Government will commence consultation "in the coming months" to assist with the introduction of the reform from 1 July 2024.

COVID Debt Levy

The Government is proposing what it terms a "temporary and targeted" COVID Debt Levy. It has two components, which will end in 2033:

- businesses with national payrolls above \$10 million a year (around 5% of Victorian businesses) to pay additional payroll tax (from 1 July 2023). The rate will be 0.5% for those with payrolls above \$10 million and additional 0.5% for payrolls above \$100 million;
- the land tax threshold will be lowered and subject an additional fixed charge, with larger landholdings also paying an extra 0.1% of land value (from 1 January 2024). Family homes will not be affected.

Payroll tax

In addition to the above change which forms part of the COVID Debt Levy, the tax-free threshold will be raised as follows:

- to \$900,000 from 1 July 2024 (up from the current \$700,000); and
- to \$1 million from 1 July 2025.

Phased abolition of business insurance duty

Victoria is planning to be the first State to abolish business insurance duty.

The rate of insurance duty on fire and industrial special risks, public and product liability, professional indemnity, employers' liability, and marine and aviation insurance will be reduced by one percentage point each year from 1 July 2024.

Further details

The Budget papers and associated media releases can be found on the [Victorian State Budget 23/24 webpage](#).

2023-24 Tasmania State Budget handed down

The Tasmanian State Budget for 2023-24 has been [handed down](#). There are no major changes or announcements in terms of State tax-related measures.

It did include the following in terms of housing support:

- extending the eligible period for the first home buyer and pensioner downsizing duty concessions for a further 12 months to 30 June 2024; and
- extending the land tax exemptions for newly constructed dwellings made available for long-term rental and short-stay accommodation converted to long-term rentals for 12 months to 30 June 2024.

The Government will also extend the duty waiver on the purchase of electric and hydrogen fuel-cell vehicles to 31 December 2023, where the purchase is for a new vehicle and the contract to purchase was entered into prior to 25 May 2023. [Source: Budget Paper No 1, p 110.]

Note also that the Payroll Tax Rebate Scheme, which provides payroll tax relief to businesses

operating in Tasmania that employ apprentices, trainees and youth employees, will be operative until 30 June 2024 and applies to all new apprentices and trainees employed before that date. The [payroll tax rebate](#) is provided for a two-year period from the date that apprentices and trainees are employed and one year from the date that youth employees are employed. [Source: Budget Paper No 2, p 59.]

GST

LCT threshold and fuel-efficient car limits

The ATO has issued a [media release](#) setting out the luxury car tax ("LCT") thresholds for the 2023-24 income year. There are two thresholds, ie for:

- fuel efficient vehicles – \$89,332 (up from \$84,916 in 2022-23); and
- other vehicles – \$76,950 (up from \$71,849 in 2022-23).

The ATO has also released a [worksheet](#) setting out how to calculate the LCT liability on the sale of a vehicle, which includes a detailed example using the 2023-24 threshold.

A third [worksheet](#) sets out the calculation when the vehicle is imported (including the interaction with customs duty, and how and when to pay it).

FINANCIAL SERVICES

APRA fees and levies for 2023-24 discussion paper

Treasury and the Australian Prudential Regulation Authority have combined to issue a [discussion paper](#) which seeks submissions on the proposed financial institutions supervisory levies for the 2023-24 financial year.

Its purpose is to seek industry views on the proposed Financial Institutions Supervisory Levies ("FISLs") that will apply in the next financial year. This is on the basis that the Government operates on a formal cost recovery basis in terms of APRA's expenditures.

The budgeted total cost for APRA for 2023-24 is \$239.1 million, a \$11.2 million (4.9%) increase relative to 2022-23. In terms of a general observation, it can be concluded that, because of the general increase in estimated costs, fees and levies will also increase. However, no specific numbers are provided (ie this does not drill down to specific examples such as the proposed increase to the cost of lodging documents etc).

Submissions may be lodged up to 9 June 2023.

Recovery and exit planning: APRA prudential standards

APRA has issued a [release](#) stating that it has finalised the following prudential standards aimed at ensuring APRA-regulated entities are better prepared to manage periods of severe financial stress:

- Prudential Standard CPS 190 Recovery and Exit Planning (CPS 190) and its accompanying Prudential Practice Guide CPG 190 Recovery and Exit Planning (CPG 190) will require all APRA-regulated entities have recovery and exit plans for responding to severe financial stress; and
- Prudential Standard CPS 900 Resolution Planning (CPS 900) and its accompanying Prudential Practice Guide CPG 900 Resolution Planning (CPG 900), require significant financial institutions (SFIs) and non-SFIs to provide critical functions to support APRA in developing bespoke resolution plans, where specific pre-positioning is needed ahead of time to ensure an orderly resolution.

APRA expects superannuation trustees, where these requirements are new, to continue to invest in their crisis preparedness ahead of their formal requirement to comply with CPS 190 from 1 January 2025.

SUPERANNUATION

Definition of employee clarified for work test

The Government has registered the [Taxation Administration \(Remedial Power - Work Test for Personal Superannuation Contributions\) Determination 2023](#). The legislative instrument modifies the operation of s 290-165(1A) of the ITAA 1997 to ensure that all individuals aged 67 to 75 years who are employees under s 15A of the Superannuation Industry (Supervision) Act 1993 ("SIS Act") are still eligible to claim a deduction for their personal superannuation contributions.

This follows the relocation of the "work test" from the Superannuation Industry (Supervision) Regulations 1994 ("SISR") and Retirement Savings Accounts Regulations 1997 ("RSAR") to the ITAA 1997, which came into effect on 1 April 2022 and apply to contributions made on or after 1 July 2022.

The instrument also applies to personal superannuation contributions made on or after 1 July 2022. A draft version was issued in April 2023 for consultation and there are no changes.

APRA review of Your Super, Your Choice amendments

APRA has [released its review](#) of the Superannuation Guarantee (Administration) Act 1992 ("SGAA") following the implementation of the Your Choice, Your Super legislation in 2020, concluding that there have been no unintended consequences identified.

The amending Act required APRA to conduct a one-off review into the operation of the amendments to the SGAA 1992 to identify any unintended consequences of these amendments.

The [report](#) states that APRA did not identify any related unintended consequences on the operation or ongoing viability and profitability of defined benefit schemes. As a result, APRA's view is that no further amendment to the SGAA 1992 (or any other Act) is required as a consequence of the amendments.

AFCA jurisdiction to hear super complaints

Treasury has released the following draft legislation, ie the [Treasury Laws Amendment \(Measures for Consultation\) Bill 2023: AFCA jurisdiction to hear superannuation matters](#). It proposes to ensure that the Australian Financial Complaints Authority ("AFCA") is able to hear all superannuation complaints, not just those listed in s 1053(1) of the Corporations Act 2001 (which was the finding in *MetLife v Australian Financial Complaints Authority* [2022] FCAFC 173).

The complaints listed in s 1053(1) correspond to the jurisdiction of the former Superannuation Complaints Tribunal – and the Corporations Act provides AFCA with certain statutory powers in relation to these types of complaints. However, this was never intended to limit AFCA's ability to consider other complaints related to superannuation outside of its superannuation jurisdiction, which was what the Full Federal Court decision meant.

If enacted, the legislation will update the Corporations Act to expand AFCA's jurisdiction so that it operates as intended:

- complaints specifically listed in s 1053 will be treated as superannuation complaints, and will be subject to the additional provisions set out in the Corporations Act;
- other complaints relating to superannuation will be able to be heard in AFCA's non-superannuation jurisdiction.

The measures will take effect on the day following assent. Comments are open until 16 June 2023.

APRA quarterly statistics: March 2023

APRA has released its Quarterly Superannuation Performance publication and the Quarterly MySuper Statistics report for the [March 2023 quarter](#). The industry performance statistics contains aggregate summaries of financial performance and position, asset allocation and key performance ratios; and MySuper statistics contains data relating to product profile, asset allocation targets and ranges, investment performance and net returns, as well as fees and costs.

REGULATOR NEWS

New temporary chair for Tax Practitioners Board

The Government [has appointed](#) Mr Peter de Cure as the acting chair of the TPB, with effect from 18 May 2023 until the earlier of 17 August 2023 or the appointment of a new Chair.

Mr de Cure is an AM and was a tax partner at KPMG for 25 years. He was first appointed to the TPB Board in July 2017. He replaces Mr Ian Klug, who was appointed to the TPB Board 10 December 2015 and appointed Chair in February 2019. Mr Klug began his career as a Chartered Accountant with organisations like Coopers and Lybrand, and Pitcher Partners.

Super data transformation Phase two roadmap consultation delayed

APRA has [announced](#) that the formal consultation on reporting standards under Phase two of the Superannuation Data Transformation (SDT) project will be delayed to November 2023. The delay follows stakeholder feedback to avoid the initial proposed timeline which coincides with the peak year-end reporting period.

While delayed, APRA intends to continue informal industry engagement on proposals for collections under the topics of Investments and RSE Licensee and RSE Profile through to the end of June 2023. APRA will also be taking the time to undertake a review of its [direction for data collections](#).

APRA issued a [consultation paper](#) in 2022 setting out the proposed scope and approach to Phase two of its SDT project. It subsequently released its [response](#) to this consultation.

Superannuation data transformation FAQ update

APRA [advises](#) that it has published updates to its frequently asked questions ("FAQs") on the Superannuation Data Transformation project. There are four additional FAQs and two updates to existing FAQs.