

TAXATION

ATO reminder to property owners this tax time

ATO has issued a reminder to rental property owners and their tax agents to take care when lodging their tax return.

Aggregated turnover and connected entities

The ATO has issued a Taxation Determination to provide guidance on two specific issues that have emerged from the ATO's administration of the aggregated turnover test.

Jail for GST fraud; agent registration terminated

ATO has advised that an individual has been sentenced re fraudulent GST refunds, in a separate matter, a tax agent has had his registration terminated after lodging false BASs.

FINANCIAL SERVICES

Treasury Laws Amendment No 3 Bill passed

Bill to refine the education and qualification framework for financial advisers has passed without amendment.

SUPERANNUATION

Financial Accountability Regime Bills pass

Bills to create a new accountability regime for the banking, insurance, and super industries has passed Parliament.

REGULATOR NEWS

ASIC News

Updates from ASIC in the past week including media releases, news, articles and speeches.

TAXATION

ATO reminder to property owners this tax time

The ATO has issued a [reminder](#) to rental property owners and their tax agents to take care when lodging their tax return. According to the ATO, nine in 10 rental property owners are getting their return wrong, where rental income are left out, or mistakes are made with property related deductions.

The ATO said that it has seen rental property owners double dipping in their deductions, where some declared their net rental income after the property manager has paid their expenses and then claiming deductions like rates and repairs again. Rental income must be reported: (i) in the year the tenant pays - not when the property agent transfers it to the property owner; and (ii) as the gross amount received (before property manager fees and other expenses).

Other areas of focus the ATO is looking at are how: (i) interest expenses are apportioned (where part of the loan was used for private purposes); (ii) deductions are claimed for "initial repairs" as opposed to ongoing general repairs and maintenance; and (iii) short term rentals including holiday homes are being reported.

The ATO also said that it will be relying on its broad suite of data-matching programs, including the recently implemented new residential investment property loans and landlord insurance data matching programs to address taxation risks in the investment property market.

Aggregated turnover and connected entities

The ATO has issued [Taxation Determination TD 2023/5](#) to provide guidance on two specific issues that have emerged from the ATO's administration of the discretion in s 328-125(6) ITAA 1997 to determine that an entity does not control another entity (for the purpose of the SBE aggregated turnover test).

- Should the discretion be exercised if a third entity has sole or primary responsibility for day-to-day management of the test entity's affairs, but holds relatively insignificant or no interests in the income or capital of the test entity, or in shares carrying voting rights? The ATO says that while that is not an irrelevant consideration, it does not of itself constitute control for s 328-125(6) purposes.
- Should control percentage interests of between 40% and 50% be disregarded if the remaining holders of interests in the test entity together necessarily control the entity, irrespective of their number or relationship to each other? The ATO rejects this proposition. In order to form a view that a group of third entities controls the test entity, the ATO looks to see whether the group has agreed to, and does, operate as a single controlling mind in relation to decision making generally in respect of the test entity.

The ATO says these issues have taken on added significance since the introduction of tax incentives with higher aggregated turnover thresholds, thereby extending their relevance beyond the small business market.

Date of effect: retrospective. TD 2023/5 finalises TD 2023/D2 and contains the same views as the Draft.

Jail for GST fraud; agent registration terminated

The ATO [has advised](#) that an individual has been sentenced in the County Court of Victoria this week to seven and a half years in prison after obtaining more than \$830,000 in fraudulent GST refunds.

The perpetrator pleaded guilty to two counts of obtaining financial advantage by deception, and one count each of attempting to obtain financial advantage by deception and dealing with proceeds of crime.

In a separate matter, the Tax Practitioners Board [advises](#) that a tax agent has had his registration terminated after lodging false BAS's totalling millions of dollars. The then tax agent had lodged false BAS's without the knowledge or authorisation of more than 15 clients. When the ATO discovered the entities were not carrying on an enterprise for GST purposes, it cancelled the lodgements to prevent over \$3.75 million of BAS credits being paid. The termination also includes the maximum five-year ban from re-applying as a tax practitioner.

FINANCIAL SERVICES

Treasury Laws Amendment No 3 Bill passed

The [Treasury Laws Amendment \(2023 Measures No 3\) Bill 2023](#) has been passed without amendment by Parliament.

It will implement the following:

- refine the education and qualification framework for financial advisers as well as to recognise the experience of long-serving adviser to encourage their retention in the industry; and
- technical amendments to the TAA 1953 and the ITAA 1997 to improve the flexibility of the First Home Super Saver Scheme.

SUPERANNUATION

Financial Accountability Regime Bills pass

Parliament has passed the following Bills:

- [Financial Accountability Regime Bill 2023](#); and
- [Financial Accountability Regime \(Consequential Amendments\) Bill 2023](#).

The Financial Accountability Regime Bill 2023 will create a new accountability regime for the banking, insurance and superannuation industries. It will establish the Financial Accountability Regime, which extends the standards of conduct in the Banking Executive Accountability

Regime to all APRA-regulated entities.

The Financial Accountability Regime will apply to the banking industry six months after assent and to the insurance and superannuation industries 18 months after assent.

REGULATOR NEWS

ASIC news

ASIC has released the following updates in its Newsroom section:

- [08 September 2023 - MEDIA RELEASE 23-250MR Former CEO permanently banned following dishonesty conviction](#)
- [08 September 2023 - MEDIA RELEASE 23-249MR ASIC sues AustralianSuper over multiple superannuation accounts](#)
- [07 September 2023 - MEDIA RELEASE 23-248MR Court finds Ferratum Australia charged prohibited fees and overcharged customers](#)
- [07 September 2023 - MEDIA RELEASE 23-247MR ASIC issues new legislative instruments for financial resource requirements and platforms](#)
- [07 September 2023 - MEDIA RELEASE 23-246MR ASIC sues PayPal Australia for alleged unfair contract term with small businesses](#)
- [06 September 2023 - MEDIA RELEASE 23-245MR Charges against former credit union CEO withdrawn](#)
- [06 September 2023 - MEDIA RELEASE 23-244MR ACBF Funeral Plans penalised \\$1.2 million by Federal Court](#)
- [06 September 2023 - MEDIA RELEASE 23-243MR ASIC takes aim at the distribution of OTC derivatives and other high-risk products to retail clients](#)
- [05 September 2023 - NEWS ASIC proposes to extend electronic precontractual disclosure legislative instrument](#)
- [05 September 2023 - NEWS ASIC proposes to remake financial reporting legislative instrument](#)
- [05 September 2023 - MEDIA RELEASE 23-242MR ASIC sues Westpac for failing to respond to hardship notices](#)

[01 September 2023 - MEDIA RELEASE 23-241MR ASIC halts offer of Storehouse Residential Trust](#)