TAXATION

Subscriptions included in digital adoption boost

ATO has advised that new and ongoing subscription costs can also qualify as eligible expenditure for the purposes of the digital adoption boost.

Salary sacrifice reporting under STP Phase 2

ATO has issued an explainer setting out the changes in reporting employee year to date amounts under STP Phase 2.

Law Improvement Package No 1 Bill passed

Bill that contains a number of technical amendments which impact GST has been passed without amendment by Parliament.

ATO Commissioner’s address

Commissioner of Taxation Chris Jordan, AO address on 6 September 2023.

Update from Tax time meeting 29 August 2023

The ATO have provided an update from the Tax Practitioner Stewardship Group (TPSG) Tax Time meeting held on 29 August 2023. More information here

ATO expanding client-to-agent linking to more businesses from 13 November 2023

The ATO have advised that from **13 November 2023**, client-to-agent linking will apply to all types of businesses with an ABN excluding sole traders. This includes entity types such as companies, trusts, partnerships, superannuation funds and not-for-profits.

FINANCIAL SERVICES

Consultation on ASIC’s guidance on insolvent trading

ASIC has released a consultation paper seeking feedback on the existing guidance for directors re duty to prevent insolvent trading.

SUPERANNUATION

Small Business and Charities Measures Bill 2023 introduced

Bill has been introduced to implement previously announced measures including changes to rules for non-arm's length expenses for super entities.

REGULATOR NEWS

ASIC News

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

Joint Accounting Bodies issue update on Minimum Financial Reporting (MFR) requirements

Since we were advised of the impact of the AASB's Framework Reform on the MFR regulations and the reporting requirements on the Category 1 to 3 licensees, we have continued to engage with the Queensland state government and the Queensland Building and Construction Commission (QBCC).

Financial advice education standards legislation passed

'The Treasury Laws Amendment (2023 Measures No. 3) Bill 2023 passed Parliament on 6 September 2023. It is now awaiting Royal Assent'.

TAXATION

Subscriptions included in digital adoption boost

The ATO has advised that new and ongoing subscription costs can also qualify as eligible expenditure for the purposes of the digital adoption boost. This was not specified in the ATO's original release on the measure.

The additional 20% tax deduction applies to eligible expenditure incurred between 7:30 pm AEDT on 29 March 2022 and 30 June 2023. The boost is for business expenses and depreciating assets and is capped at $100,000 of expenditure per income year. Eligible claimants can receive a maximum bonus deduction of $20,000 per income year. It only available for small business entities, ie those with aggregated annual turnover of less than $50 million for the income year in which the expenditure is incurred.

In its latest release, the ATO states that a good rule of thumb is to consider "if the small business would have incurred the expense if they didn't operate digitally. That is, if they hadn't sought to adopt digital technologies in the running of their business". Using this rule of thumb, the ATO confirms that these costs are eligible:

- advice about digitising a business;
- leasing digital equipment; and
- repairs and improvements to eligible assets that aren't capital works.

Importantly, the ATO states that new and ongoing subscription costs can also qualify as eligible expenditure if it relates to a taxpayer's digital operations. This includes an ongoing subscription to an accounting software platform for their business and perhaps a new subscription for digital content that is used in developing web content to advertise their business.

Salary sacrifice reporting under STP Phase 2

The ATO has issued an explainer setting out the changes in reporting employee year to date amounts under STP Phase 2, noting that "most employers" have now transitioned to STP Phase 2.

In STP Phase 1, employers reported post-sacrificed amounts to the ATO. STP Phase 2 requires employers to report pre-sacrificed amounts and separately report the salary sacrificed amounts:

- type S for amount sacrificed to super;
- type O for amounts sacrificed towards other benefits.

The ATO notes that there's been no change to activity statement requirements – employers still need to report post-sacrificed amounts at "W1", and shouldn't include pre-sacrificed amounts at this label.

Law Improvement Package No 1 Bill passed

The Treasury Laws Amendment (2023 Law Improvement Package No 1) Bill 2023 has been passed without amendment by Parliament.

It was introduced on 14 June 2023 and was passed unamended by the House of Reps on 1 August. It will transfer "longstanding and accepted matters" which are currently contained in ASIC legislative instruments into the primary law. It also proposes a number of technical amendments which are not expected to have any compliance or financial impact (but these do impact GST).

ATO Commissioner's address

In his address the Commissioner covered:

- his 'reinvention journey
- Current state of play
- Sparking change together
- My challenge to you
- What does the future look like?

The complete speech can be accessed here

Update from Tax time meeting 29 August 2023

ATO updates
Updates were provided from:

- ATO Systems and Digital services
- Service Delivery
- Marketing and Communication
- Small Business
- Superannuation and Employer Obligations
- Member issues and insights

As no other business was raised, members considered and confirmed the 29 August meeting as the final TPSG Tax time meeting in this series. An out of session meeting will be convened, if required.

ATO expanding client-to-agent linking to more businesses from 13 November 2023

The ATO have advised that 'the security of tax and super information is very important to us. That's why we're changing the process for agents linking to taxpayer accounts. Client-to-agent linking strengthens the security of our online services and helps protect against fraud and identity-related theft.

We've progressively rolled out client-to-agent linking to public and multinational businesses, Top 500 privately owned wealthy groups and government entities.

What does this mean for businesses and agents?
These businesses will need to nominate an agent in Online services for business before their agent can link to their account, when they:

- Engage a new tax or BAS agent, or payroll service provider to represent them
- Provide extra authorisation to their existing agent

If a business is already represented by an agent and they don't make changes, they won't need to do anything.
We've updated our website to include details of this rollout and will promote the rollout through other communication channels. We will continue to add additional resources and support material for both clients and agents.
We're committed to working with you during this change. We're consulting with a working group consisting of tax professionals, business and association representatives to ensure we have the right support and information available as we progressively rollout client-to-agent linking (including information for those who cannot access online services)'.

More information
The following support materials are available on our website:

- Client-to-agent linking in online services provides information for agents on client-to-agent linking
- Agent nomination process provides information for clients on how to authorise an agent in Online services for business

- Client-agent linking steps provides a summary of the steps required so nominate an agent
- Set up your access to Online services for business – provides help to your clients to get set up on Online services for business

FINANCIAL SERVICES

Consultation on ASIC's guidance on insolvent trading

ASIC has released Consultation Paper 372: Guidance on insolvent trading safe harbour provisions: Update to RG 217. The Consultation Paper ("CP") seeks feedback on the existing guidance for directors about their duty to prevent insolvent trading, ie RG 217: Duty to prevent insolvent trading: Guide for directors.

By way of background, a Treasury report released in March 2022 (Review of the insolvent trading safe harbour – Final report) identified a lack of awareness and understanding of a director's duty to prevent insolvent trading (and the related safe harbour provisions). The report made a specific guidance suggestion that ASIC update RG 217 "to refer to the insolvent trading prohibition, and the safe harbour provisions, together with general guidance on the operation of the relevant provisions".

As part of the proposed amendments to RG 217, including reference to the safe harbour provisions and to the liability of a holding company, the CP seeks to determine scope and relevance. In particular ASIC said that it is keen to "fully understand and assess the financial and other impacts of its proposals and any alternative approaches", including:

1. the likely compliance costs;
2. the likely effect on competition; and
3. other impacts, costs and benefits.

Comments are due by 26 October 2023.

SUPERANNUATION

Small Business and Charities Measures Bill 2023 introduced

The Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 has been introduced in the House of Reps proposing to implement the following previously-announced measures.

- ***$20K instant asset write-off*** – will increase the instant asset write-off threshold (ie the threshold below which amounts can be immediately deducted under the simplified depreciation rules) from $1,000 to $20,000. This will only be available to small businesses, ie those with an aggregated annual turnover of less than $10 million. **Date of effect**: applies to depreciating assets costing less than $20,000 that are first used or installed ready for use between 1 July 2023 and 30 June 2024.

- ***Small business energy incentive* –** will provide small and medium businesses (ie those with an aggregated annual turnover of less than $50 million) with access to a bonus deduction equal to 20% of the cost of eligible assets or improvements to existing assets that support electrification or more efficient energy use. **Date of effect**: applies to eligible assets first used or first installed ready for use, and eligible improvement costs incurred, from 1 July 2023 until 30 June 2024.
- ***Super fund non-arm's length expenses* –** proposes changes to the rules for non-arm's length expenses for superannuation entities. Specifically, Sch 7 will exempt large APRA-regulated funds and exempt public sector superannuation funds from the rules related to non-arm's length expenses – although these funds are still subject to rules for income derived on a non-arm's length basis. **Date of effect**: the amendments will apply in relation to income derived in the 2018-19 income year and following income years.
- ***Income tax changes to account for updates to general insurance accounting standard* –** will amend the income tax law with respect to general insurance to provide broad alignment with the new accounting standard, AASB 17. **Date of effect**: the amendments will apply to income years starting on or after 1 January 2023.
- ***Amendments to AFCA legislation to correct MetLife* –** proposes to restore AFCA's jurisdiction to deal with superannuation-related complaints, consistent with the policy approach prior to the decision of *MetLife v Australian Financial Complaints Authority* [2022] FCAFC 173. **Date of effect**: retrospective.
- ***Exemption for Global Infrastructure Hub Ltd* –** proposes to extend the current exemption from income tax for GI Hub.

The following measures deal with deductible gift recipients (DGRs).

- Schedule 3 of the Bill will create a new class of community charities in Subdiv 30-B of the ITAA 1997. The class consists of community charity trusts and community charity corporations.
- Schedule 4 of the Bill will add two new entities as DGRs and extend the DGR listing of two others.

SMSF auditors and charges over fund assets

The ATO have advised the Professional Associations recently that in conducting their SMSF Auditor compliance activity they have observed that there has been some deficiencies in the audit process and certain audit procedures have not been complied with.
The ATO states that the 'minimum expectation of an audit check' under Regulation 13.14 of the SISR is 'The auditor should obtain evidence that trustees have not given a charge over or in relation to a fund asset by seeking written confirmation from trustees and by carrying out the following checks:

- property title search to check for encumbrances on real property.
- the Personal Property Securities Register for other parties registering interests against other SMSF assets'.

If the SMSF Auditor has used professional judgment in arriving at a position, the SMSF Auditor needs to expresses how they have arrived at that position and how they have satisfied the requirement in relation to Regulation 13.14 of the SISR.

Clear take away from the updated guidance is that - doing nothing is not an option!

- Overarching guidance is provided by the ATO at QC45566 - *Compliance audit;*
- Further guidance in QC73156 *Checking for charges over property assets;* and
- Auditing and Assurance Standards Board *GS 009 Auditing Self-Managed Superannuation Funds*

If you have any queries please feel free to send an email to the Advocacy & Policy team at ipaadvocacy@publicaccountants.org.au

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

Joint Accounting Bodies issue update on Minimum Financial Reporting (MFR) requirements

The objective of the engagement with the Queensland Government and the Queensland Building and Construction Commission (QBCC) is to establish a reporting mechanism that strikes the right balance between effective compliance and the additional regulatory

requirements imposed as a result of the AASB's financial reporting changes.
We have advocated for Category 1 to 3 licensees to prepare Special Purpose Financial Statements (SPFS) including additional specified standards for MFR reporting purposes, instead of General Purpose Financial Statements (GPFS) that are currently being asked for.
The six standards we have identified for SPFS are:

- AASB 101 Presentation of Financial Statements;
- AASB 107 Statement of Cash Flows;
- AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors;
- AASB 124 Related Party Disclosures;
- AASB 1048 Interpretation of Standards; and
- AASB 1054 Australian Additional Disclosures.

We do not support a more onerous financial reporting framework on the basis that it will impose a significant workload on our members and costs to their clients. We have collectively worked with our colleagues in the Joint Accounting Bodies in developing this policy position and see no reason why SPFS that comply with specified standards cannot be a viable and effective alternative instead of the current requirement for GPFS, for Category 1 to 3 licensees.
We understand the ongoing challenges members and Category 1 to 3 licensees face. We will continue to pursue this matter and implore its urgency with both Queensland state government and QBCC.
Should you have any questions kindly send these to ipaadvocacy@publicaccountants.org.au.

Financial advice education standards legislation passed

'The Bill delivers the Government's election commitment to better recognise the experience of long-serving advisers by removing the tertiary education requirement for advisers with 10 years' experience, a clean disciplinary record who have passed the exam.
In addition, the Bill will also provide more flexibility for a new entrant to demonstrate that they have completed an approved degree. This will be either by applying to the Minister for an approval or by obtaining written confirmation from their course provider that they have substantively met the conditions for the specified approved qualification.
Once the Bill has received Royal Assent and the Minister has approved the application form, Treasury will be able to begin receiving applications via the fas.treasury.gov.au website.
Further amendments will be required to the legislative instrument in order to enable course providers to provide written confirmation that a course substantively met the conditions for the specified approved qualification. Treasury will work with higher education providers and industry on the changes to the legislative instrument'.