TAXATION

ATO updates

The ATO have provided a number of updates including 'changes to whistleblower protections; the instant asset write-off; small business energy incentive; NFP self-review return; updates to guidance materials; and upcoming ATO events for tax professionals'.

ASIC issues reminder to AFS licensees about new experienced provider pathway notification obligations

'From 1 July 2024, AFS licensees who receive a copy of a written declaration from a financial adviser who is eligible to rely on the pathway must notify ASIC within 30 business days of receiving the declaration.'

Sales data from online selling platforms: ATO data matching notice

The ATO has issued a notice that it will acquire Australian sales data from online selling platforms for 2023-24 through to 2025-26.

Division 7A: benchmark interest rate for 2024-25

The ATO has confirmed the benchmark interest rate for Div 7A purposes for the 2024-25 income year.

Code of Professional Conduct expansion from 1 August 2024: TPB reminder

The TPB has issued a reminder to tax practitioners of the expanded obligations in the Code supplementing the existing obligations under the code effective 1 August 2024.

SUPERANNUATION

Important changes to super from 1 July 2024: ATO

The ATO has issued a media release highlighting important changes to super from 1 July 2024.

NALI provisions for APRA-regulated super funds from 1 July 2024: ATO reminder

The ATO has reminded APRA-regulated super funds that changes to the non-arm's length income (NALI) provisions take effect from 1 July 2024.

Transfer balance relief for successor fund transfers

New Regulations remove the potential for recipients of capped defined benefit income streams to have their transfer balances impacted by involuntary successor fund transfers.

FINANCIAL SERVICES

Financial Accountability Regime - final rules issued

ASIC and APRA have published new information to help insurers and superannuation trustees prepare for the commencement of the regime from 15 March 2025.

ASIC proposes to update superannuation forecasts relief instrument

In light of Treasury's revised long-term wage growth forecasts, ASIC proposes to update the rate of nominal wage inflation in Instrument 2022/603 and RG 276.

ASIC proposes October expiry date for MIS legislative instrument

ASIC has proposed allowing the ASIC Corporations (Land Holding for Primary Production Schemes) Instrument 2014/15 to expire on 1 October 2024.

ASIC releases estimated industry funding levies for 2023-24

ASIC has issued its 2023-24 Cost Recovery Implementation Statement outlining estimated regulatory costs and levies for industry subsectors.

REGULATOR NEWS

ASIC News

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

APRA news

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

OTHER TOPICS

Proposed legislative amendments, government announcements and consultations

Updates on recent legislative amendments.

TAXATION

ATO updates

The ATO have advised that 'there are several updates' including:

- Changes to whistleblower protections
- The instant asset write-off is now law
- The small business energy incentive
- NFP self-review return Tax Time 2024
- Updates to guidance material
  - Division 7A webinar recording released
  - Get the most out of ATO online services
- Upcoming ATO events for tax professionals

Changes to whistleblower protections

The Government announced a package of reforms in August 2023 in response to the PWC matter. These reforms, effective from 1 July 2024, will ensure tax advice is provided in line with appropriate professional and ethical standards.

The package of reforms include:

- extending whistleblower protections for disclosures to the Tax Practitioners Board (TPB) and several bodies that provide assistance in relation to whistleblower disclosures. These disclosures include the misconduct of tax practitioners and unregistered preparers.
- aligning some protections in the whistleblower regime with the Public Interest Disclosure regime,
- enabling the ATO, Australian Charities and Not-for-profits Commission (ACNC) and TPB to share disclosed information more effectively.

The changes will better protect individuals who disclose information to the ATO and TPB on tax avoidance behaviour and other tax issues.

To learn more about the new arrangements, visit www.ato.gov.au/tipoff

The instant asset write-off is now law

Law has now passed that sees the instant asset write-off (IAWO) threshold temporarily increase from $1,000 to $20,000 for 2023-24.

Under the IAWO, small business clients with an aggregated turnover of less than $10 million, may be able to deduct the full cost of eligible assets which cost less than $20,000. It can be used for both new and second-hand assets.

Eligible assets must be first used or installed ready for use between 1 July 2023 and 30 June 2024. The $20,000 threshold will apply on a per asset basis, so businesses can instantly write off multiple assets.

Eligible small businesses will also be able to write off the first cost of improvements incurred between 1 July 2023 and 30 June 2024 under $20,000 to qualifying assets that were written off in a previous tax year.

Assets costing $20,000 or more, can continue to be placed into the general small business pool and depreciated at 15% in the first income year and 30% each following income year.

The IAWO is one of several depreciation methods available to small businesses. It has been offered under changing conditions for many years, with Temporary full expensing (TFE) available from 6 October 2020 to 30 June 2023.

The usual rules for claiming deductions still apply. Your clients can only claim the business portion of the expense and make sure they have records to prove it.

For more information visit, ato.gov.au/instantassetwriteoff

The small business energy incentive

The Small business energy incentive ("the incentive") has passed into law. The measure will support businesses invest in assets that will reduce their electricity bills and improve their energy efficiency.

Businesses with an aggregated annual turnover of less than $50 million can claim an additional 20% tax deduction on top of their normal deduction claim for spending that supports more efficient energy use.

To claim the incentive:

- the expenditure must be eligible for a deduction under existing law; and
- between 1 July 2023 and 30 June 2024:
    - the improvement cost is incurred, or
    - the asset is both first used or installed ready for use for any purpose, and used or installed ready for use for a taxable purpose.

Up to $100,000 of assets and improvement costs can be claimed, with a maximum bonus deduction of $20,000 per business.

This measure intends to cover a broad range of assets and improvements that support efficient energy use. However, the following costs are ineligible under this incentive:

- assets or expenditure on assets that can use a fossil fuel
- assets or expenditure on assets that have the sole or predominant purpose of generating electricity (such as solar panels)
- capital works
- motor vehicles
- expenditure allocated to software development pools
- financing costs.

Expenditure that's ineligible for the incentive can still be claimed under normal deduction rules but will not receive the additional 20% deduction. For more information on the small business energy incentive, visit ato.gov.au/energyincentive.

NFP self-review return Tax Time 2024

From the 2023-24 income year, non-charitable not-for-profits (NFP) with an active Australian business number (ABN), must lodge an annual NFP self-review return to notify the ATO of eligibility to self-assess as income tax exempt.

The return went live last week and the ATO are aware of an initial issue but it's now testing well, with lodgments being received through ATO online services.

The ATO will shortly post letters to non-charitable not-for-profits to notify them that the NFP self-review return is ready to lodge, and that the Self-help phone service and additional time to lodge up to 31 March 2025 is available.

What non-charitable not-for-profit (NFP) organisatio6ns need to know and do this Tax Time

- NFPs can access and lodge their 2023-24 NFP self-review return now in Online services for business**.**
- Registered tax agents can lodge the NFP self-review return on their behalf, using Online services for agents.
- A self-help phone service is available to lodge the 2023-24 return if NFPs can't access Online services for business.
- Lodgement is allowed up to 31 March 2025 for NFPs having difficulties accessing Online services or the Self-help phone service. Agents and NFPs don't need to contact the ATO to receive this extra time, as it forms part of the ATO's transitional support arrangements.
- An ATO approved substituted accounting period (SAP) may not be required. As financials are not reported, in most circumstances NFPs can meet the return's requirements by considering their activities, purposes and governing documents for the year ending 30 June.
- **NFPs that are taxable** – If they complete the NFP self-review return and find they don't meet eligibility requirements for 1 of the 8 categories, follow the prompts to notify the ATO that none of the categories apply. The ATO will work with them to meet their ongoing obligations.
- **NFPs that may be charitable or are unsure** - If they think they may have, or are unsure if have, charitable purposes, continue to complete the NFP self-review return and submit. The ATO will work with them to help determine charitable status.
- Notify the ATO of changes to registration details now by downloading the fillable form at ato.gov.au/NFPnotifyofchanges
  If a person is a newly appointed associate or authorised contact for a NFP, remember to attach evidence to the back of the form.

Quick reminders

1. To access Online services for business, NFPs first need to Set up MyGovID and RAM
2. The best place to find updated guidance about the new return is at ato.gov.au/NFPtaxexempt
3. To lodge using the Self-help service, NFPs will need to.
   a. first review the list of self-review return questions at NFP self-review guide
   b. record responses to each return question and have these when they call
   c. phone the Self-help service on **13 72 26** for NFP self-review return lodgment
   d. enter the organisation's ABN and a reference number listed on a letter the ATO posted to the organisation, such as the *Your annual self-review reporting obligation notice*.
   e. follow the prompts to record responses and submit the NFP self-review return

questions as they record their responses.
If lodgers have the above details when they call, lodgment will typically take around 10 minutes to complete.

4. An organisation's address, associate and authorised contacts must be up to date so they can access Online services for business or engage a registered tax agent. If registration details need to be updated notify the ATO of changes now.

Updates to guidance material

Practitioners are encouraged to subscribe to *Tax professionals newsletters* for the latest *Tax professionals newsroom* articles and other key updates from the ATO.

Division 7A webinar recording released

The recording of the recent ATO webinar 'Continuing the focus on Division 7A: answers to frequently asked questions' is now available to view and share.

Alongside frequently asked questions and tax time tips, the webinar discusses when the Commissioner may exercise discretion under section 109RB to disregard a Division 7A deemed dividend or allow it to be franked.

The webinar slides are **attached** as a resource for agents.

Get the most out of ATO online services

The Fast Key Codes guide provides information and links to online self-help options available and it is recommended that agents use these before phoning the ATO. When phoning about something that can be resolved through an online channel, ATO officers will direct agents to that channel.

Refer to the digital education resources and tax agent online services guide / BAS agent online services guide to get the most out of ATO online services.

If agents can't resolve a tax or super law-related enquiry, or a complex administrative matter relating to their clients through existing channels they may be eligible to use the Tax practitioner assistance service. Refer to the ATO's website for further information on this service.

Upcoming ATO events for tax professionals

ATO open forums

ATO open forum webinars provide the opportunity for tax professionals to hear about the latest updates and upcoming changes to tax and super from guest speakers from the ATO and the Tax Practitioners Board.

Registrations are open for the next series of open forums for 2024.

ASIC issues reminder to AFS licensees about new experienced provider pathway notification obligations

ASIC have published a media release highlighting these key points:

- From 1 July 2024, AFS licensees are required to notify ASIC by lodging a notice where they have received a written declaration from a financial adviser who is eligible to access the experienced provider pathway.
- AFS licensees have 30 business days to notify ASIC from the day they receive a written declaration. For written declarations received before 1 July 2024, AFS licensees have 30 business days from that day to notify ASIC.
- Notices can be lodged with ASIC through the appoint (add) and maintain (update) functions on ASIC Connect.

You can read more here

Sales data from online selling platforms: ATO data matching notice

The ATO has issued a notice stating that it will acquire Australian sales data from online selling platforms for 2023-24 through to 2025-26. The data items to be acquired include:

- client identification details - individuals (given and surname, date of birth, account holder's addresses, Australian business number, email address, contact phone number);
- client identification details - non-individuals (business name, address, Australian business number, contact name, email address, contact phone number);
- account details (account name, account identification number, account registration date, account registration type, store type, seller status, IP address, number of annual sales transactions, value of annual sales transactions, number of monthly sales transactions, value of monthly sales transactions).

For the purpose of compliance enforcement, the ATO estimates the total number of account records obtained to be between 20,000 and 30,000 each financial year.

Division 7A: benchmark interest rate for 2024-25

The ATO has confirmed that the benchmark interest rate for Div 7A purposes is 8.77% for the 2024-25 income year (up from 8.27% for 2023-24). The only time the rate was higher was in 2008-09, when it was 9.45%.

The ATO no longer issues annual rulings on the matter and has now withdrawn TD 2018/14 , which set out the 2018-19 benchmark interest rate.

Code of Professional Conduct expansion from 1 August 2024: TPB reminder

The TPB has issued a media release reminding tax practitioners of the expanded obligations in the Code of Professional Conduct ("Code") introduced in the recently registered Tax Agent Services (Code of Professional Conduct) Determination 2024. Eight additional obligations will supplement the existing obligations under the Code effective 1 August 2024.

The TPB also said that it will be consulting on draft guidance relating to the new Code obligations "progressively", starting in the coming weeks.

SUPERANNUATION

Important changes to super from 1 July 2024: ATO

The ATO has issued a media release highlighting important changes to super from 1 July 2024:

- super guarantee rate increased to 11.5% (previously 11%). Super contributions for the quarter ending 30 June are still calculated at the 11% rate for payments made prior to 1 July;
- the concessional super contributions cap increased to $30,000 per year (previously $27,500);
- the non-concessional super contributions cap increased to $120,000 per year (previously $110,000); and
- the maximum super contribution base, for employers, increased to $65,070 for the 2024-25 financial year (previously $62,270).

NALI provisions for APRA-regulated super funds from 1 July 2024: ATO reminder

Following the assent of the Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024 in June 2024, the ATO has issued a reminder to APRA-regulated super funds that changes to the non-arm's length income ("NALI") provisions take effect from 1 July 2024. The changes:

- limit the amount of NALI arising from a non-arm's length general expense for small APRA regulated funds to twice the difference between the actual expense and the expected market rate of the expense;
- exempt large APRA regulated funds from the non-arm's length expenditure ("NALE") provisions for both general and specific expenses of the fund, and confirm the remaining NALI rules continue to apply;
- exempt the application of the NALE provisions, as amended by the Act, for expenditure that occurred prior to the 2018-19 income year; and
- apply from 1 July 2018.

More information about NALI can be found on the ATO website.

Transfer balance relief for successor fund transfers

The Income Tax Assessment Amendment (Superannuation) Regulations 2024 (the "Regulations") have been registered and commence 6 July 2024. The regulations will remove the potential for recipients of capped defined benefit income streams (CDBISs) to have their transfer balances impacted by involuntary successor fund transfers ("SFTs").

New s 294-25.03 of ITAR 2021 provides that, when an SFT occurs, the credit that arises in a CDBIS recipient's transfer balance account is equal to the debit that arises. This means that the debit and credit cancel each other out and the SFT has no net impact on the recipient's transfer balance. This puts CDBIS recipients of funds who undergo an SFT in the same net position as if the SFT did not occur.

The amendments apply retrospectively where a CDBIS recipient has been disadvantaged by an SFT that occurred before 6 July 2024 in relation to their transfer balance. Where a CDBIS recipient has had their transfer balance reduced due to an SFT that occurred before 6 July 2024, they can retain that benefit and will not be impacted by the amendments in relation to that SFT.

Capped defined benefit income streams (CDBISs) are defined in s 294-130 of the ITAA 1997 and s 294.130.01 of the ITAR 2021. Together, this includes certain lifetime income streams and income streams that commenced prior to 1 July 2017 including, life expectancy income streams and market linked income streams (also known as term allocated pensions or growth pensions).

FINANCIAL SERVICES

Financial Accountability Regime - final rules issued

ASIC and APRA have published new information to help insurers and superannuation trustees prepare for the commencement of the Financial Accountability Regime ("FAR"). The FAR takes effect for the insurance and superannuation industries from 15 March 2025.

The new information package includes:

- Financial Accountability Regime Regulator Rules Amendment Instrument No. 1 of 2024 (F2024L00874) - an amendment to the Regulator Rules (F2024L00285), which prescribes key functions information for inclusion in the FAR register of accountable persons; and
- a joint ASIC and APRA letter summarising key issues.

Updated information in the package includes:

- an information paper - to assist in understanding and complying FAR obligations, with changes made to reflect the final list of key functions and their descriptions;
- an accountability statement guide and template - to in the preparation of accountability statements; and
- reporting form instructions - to assist insurance and superannuation entities in providing the required information to ASIC and APRA.

This information completes the total package of FAR guidance materials.

ASIC proposes update to superannuation forecasts relief instrument

ASIC proposes to update the rate of nominal wage inflation in ASIC (Superannuation Calculators and Retirement Estimates) Instrument 2022/603 (Instrument 2022/603), and Regulatory Guide 276 Superannuation forecasts: Calculators and retirement estimates (RG 276) in view of Treasury's revised long-term wage growth forecasts.

The prescribed default inflation rates reflect nominal wage inflation while a user is in the accumulation phase (currently at 4% pa), and consumer price inflation while a user is in the retirement phase (2.5% pa). To ensure that the default inflation assumptions in continue to reflect long-term economic conditions, ASIC proposes to revise the prescribed rate of nominal wage inflation in ASIC Instrument 2022/603 and RG 276 from 4% pa to 3.7% pa, aligning the default rate with the long-term forecast of nominal wage inflation as revised in the 2023 Intergenerational Report.

ASIC proposes a period of transition to 31 December 2024, recognising that providers delivering superannuation forecasts to consumers in the 2024 calendar year may need time to make updates. Up to 31 December 2024, providers can adopt either the existing default nominal wage inflation rate (4% p.a.) or the revised rate (3.7% p.a.) when converting future dollars to today's dollars if a provider is relying on the ASIC relief. From 1 January 2025 the revised default nominal wage inflation rate of 3.7% p.a. will apply.

ASIC proposes October expiry date for MIS legislative instrument

ASIC has proposed that a legislative instrument, relating to managed investment schemes ("MIS"), be allowed to expire on 1 October 2024. This means the instrument will cease to operate and entities will no longer be able to rely on it.

ASIC is seeking feedback regarding the sunsetting of ASIC Corporations (Land Holding for Primary Production Schemes) Instrument 2024/15 from Australian financial services (AFS) licensees, superannuation trustees, platform operators, responsible entities, consumer groups and other interested stakeholders.

ASIC understands that the relief for primary production schemes covered by this instrument may no longer be required by the managed fund sector.

FEEDBACK DUE: 9 AUGUST 2024

ASIC releases estimated industry funding levies for 2023-24

ASIC has issued its 2023-24 Cost Recovery Implementation Statement ("CRIS"). The CRIS outlines estimated regulatory costs and levies for each industry subsector to help entities plan and budget for levies and fees to be charged.

The statement's figures are a guide only. Final levies are published in December 2024 and invoiced between January and March 2025. The levies organisations pay reflect ASIC's costs of regulating the subsectors in which they operate.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- 12 July 2024 – NEWS ITEM – What companies and registered schemes should know about virtual-only meetings – In the lead up to the period when many companies hold annual general meetings, ASIC reminds companies that they are able to hold virtual-only meetings if their constitutions allow it. Companies should set about amending their constitutions if they are planning to hold virtual-only AGMs and ensure that the forms appropriate for the company are lodged with ASIC to complete the amendments.
- 11 July 2024 – NEWS ITEM – ASIC acknowledges royal assent of the DBFO Act – ASIC has noted that most of the amendments brought about by the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024* (Cth) as Act No 67 of 2024 are now law. The amendments are very wide-ranging and cover superannuation, tax, fees for financial services providers, conflicted remuneration and insurance. ASIC has already registered ASIC Corporations (Amendment) Instrument 2024/554 to amend other instruments to reflect changes to the requirements to issue Financial Services Guides. Further updated regulatory guidance will follow in coming months.
- 11 July 2024 – MEDIA RELEASE – ASIC and APRA issue final rules and information for the Financial Accountability Regime – ASIC and APRA have jointly published guidance for insurers and superannuation trustees to gear up for the Financial Accountability Regime which will apply to them from 15 March 2025. Regulator rules have been amended to identify key functions and accountable persons and a summary of key topics raised during consultation with interested parties. Updated versions of the previously issued information paper, accountability statement and reporting forms have been provided.
- 10 July 2024 – MEDIA RELEASE – ASIC successful in first DDO case against Firstmac –The Federal Court of Australia has found that Firstmac Ltd breached the design and distribution provisions in Pt 7.8A of the *Corporations Act 2001* (Cth) by failing to take reasonable steps that would have resulted in, or would have been reasonably likely to have resulted in, the distribution of one of its investment products being consistent with its target market determination. Firstmac had used a cross-selling strategy to market a managed investment scheme to its existing term deposit holders. The ruling of Downes J is the first court judgment on Pt 7.8A and is available.
- 10 July 2024 – MEDIA RELEASE – ASIC cancels AFS licence of Accumulus Capital Pty Ltd – With effect from 4 July 2024, ASIC has cancelled the Australian credit licence of Accumulus Capital Pty Ltd because it failed to pay industry funding levies and late payment penalties. Accumulus had also not used the licence in the time since it was assigned in 2014.
- 8 July 2024 – NEWS ITEM – ASIC releases estimated industry funding levies for 2023-24 – ASIC has issued its annual 2023-24 Cost Recovery Implementation Statement which estimates regulatory costs and levies to help entities budget for levies and fees to be charged. Final levies will be published in December 2024 and invoiced in the first quarter of 2025.
- 8 July 2024 – MEDIA RELEASE – WA financial adviser Dash Vee permanently banned from financial services – ASIC has permanently banned Dashiel Benjo Vee from involvement in financial services because of his dishonesty and conduct, and which demonstrated the opposite of integrity, sound judgment, trustworthiness and

professionalism. He had misled his employer and his clients about his financial adviser exam results and qualifications. ASIC found that he was not a fit and proper person to hold an Australian Financial Service Licence.

- 8 July 2024 – NEWS ITEM – ASIC proposes October expiry date for managed investment scheme legislative instrument – ASIC proposes that allows a legislative instrument on land holdings for primary production schemes to expire on 1 October 2024. The *ASIC Corporations (Land Holding for Primary Production Schemes) Instrument 2024/15* modifies the operation of the *Corporations Act 2001* (Cth) but the relief it affords to primary productions schemes may no longer be required by the managed fund sector. ASIC has invited feedback from interested parties as to whether the instrument is still useful and the standards in it remain appropriate. Submissions are open until 9 August 2024.
- 5 July 2024 – MEDIA RELEASE – AAT varies ASIC's ban of Sydney financial adviser – The Administrative Appeals Tribunal has varied ASIC's 2021 decision to ban Mr Christopher Betalli from providing financial services for two years. ASIC's decision was stayed pending an appeal. The AAT had varied the ban to a period of 12 months which ends on 24 April 2025. The Tribunal's decision is available.

APRA news

APRA has released the following updates in its News and publications section:

- 11 July 2024 – MEDIA RELEASES – ASIC and APRA issue final rules and information for the Financial Accountability Regime – ASIC and APRA have jointly published guidance for insurers and superannuation trustees to gear up for the Financial Accountability Regime which will apply to them from 15 March 2025. Regulator rules have been amended to identify key functions and accountable persons and a summary of key topics raised during consultation with interested parties. Updated versions of the previously issued information paper, accountability statement and reporting forms have been provided.
- 8 July 2024 – NEWS – APRA finalises revised Interest Rate Risk in the Banking Book requirements – APRA has published revised prudential and reporting guides and standards in response to its consultation in December 2023 on Interest Rate Risk for authorised deposit-taking institutions. The amendments address insights from large interest rate movements during the international banking crisis of 2023, create better incentives for institutions to manage interest rate risk and simplify the risk framework making it proportionate to the size of institutions.

OTHER TOPICS

Proposed legislative amendments, government announcements and consultations

Updates on recent legislative amendments:

- 9 July 2024 – LEGISLATION – Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024 (Cth) – This Act received assent as Act No 67 of 2024. The bill will amend the *Corporations Act 2001* (Cth) in relation to ongoing fee renewal and consent requirements, rules banning conflicted remuneration, and standardised consumer consent requirements for certain insurance commissions, all in Part 7.7A; and financial services guide requirements in Part 7.7. There are technical amendments on auditor rotation in Chapter 2M and the insolvency safe harbour in Part 5.7B. All of the corporations law amendments take effect on 10 July 2024, except the amendments on insurance commissions which are to take effect on 9 July 2025.