

TAXATION

Requirement to lodge 2019 tax and other returns made

The Notice of Requirement to Lodge a Return for Income Year Ended 30 June 2019 has been registered.

TPB releases draft guidance: engagement letters, transfers of business

The Tax Practitioners Board has released 2 draft guidance practice notes, designed to help practitioners understand their obligations under the *Tax Agents Services Act 2009*.

Charities Annual Information Statement due date fast approaching

Charities who report on a calendar year (from 1 January to 31 December) have until 30 June 2019 to submit their 2018 Annual Information Statement.

Political advocacy and the election: what charities can and can't do

ACNC Commissioner says it is important for registered charities to familiarise themselves with their obligations regarding political advocacy and campaigning.

STP exemptions and deferrals – ATO reminders

With STP reporting starting for all employers from 1 July 2019, the ATO has reminded businesses about the STP exemptions and deferrals that are available.

Payment summaries, STP and myGov account this tax time

While it is being reported that many businesses are not ready for Single Touch Payroll, the employees of businesses that are operating STP face some changes.

Jail time for PAYG withholding fraud

A Mildura man has been sentenced to 6 months' jail for PAYG Withholding fraud relating to illegal phoenix activity in the labour hire market for the agricultural industry.

Affordable Housing Initiative Donations – Addendum to CR 2019/27

The ATO has issued an Addendum to the recently released CR 2019/27 (Deductibility of donations to Community Housing Canberra Limited under a Payment Direction Deed).

'Enterprise' meaning for fuel tax purposes – Addendum to FTD 2006/3

The ATO has issued an Addendum to Fuel Tax Determination FTD 2006/3, its ruling on the meaning of 'enterprise' for fuel tax purposes.

Bride and Prejudice series not a documentary

The AAT has affirmed Screen Australia's decision not to issue a film producer certificate for the Bride and Prejudice series as it was not considered to be a documentary.

Greens propose double GST registration threshold

The Greens have launched their small business policy that includes a doubling of the GST registration threshold from \$75,000 to \$150,000 for small businesses.

FINANCIAL SERVICES

ASIC consults on lifting standards of complaints handling

ASIC has initiated public consultation on new standards about how financial firms handle consumer and small business complaints.

Share buy-backs – Class Rulings CR 2019/30-32

The ATO has issued 3 Class Rulings on off-market share buy-backs and AOC medal incentive funding payments.

Call for single regulatory regime for tax financial advisers

The Financial Services Council has called for the regulation of tax financial advisers to be streamlined into a single regulatory regime under FASEA.

SUPERANNUATION

Protecting Your Super – how new law may affect SMSFs

Under the Protecting Your Super package, the ATO says SMSFs may receive a rollover of consolidated unclaimed super money for members.

ATO sets up disqualified SMSF trustees register

The ATO said it recently announced that it would provide SMSF professionals with a register of trustees that the ATO had disqualified.

Super reform guidance: updates and withdrawals

The ATO has released updated versions of two Guidance Notes and made minor changes to their wording.

ATO reminds SMEs about paying super for backpackers

The ATO has reminded businesses that employ backpackers that they may need to pay superannuation guarantee for them.

Reporting requirements when finalising an SMSF audit

When auditing a self-managed superannuation fund (SMSF), if an approved auditor forms an opinion that a contravention has occurred, there are a number of steps that must be taken.

Reminder: due dates for SMSF annual returns and TBARs

Recently the ATO published an article reminding trustees and professionals about the important lodgment dates that are approaching for self-managed superannuation funds (SMSFs).

REGULATOR NEWS

ASIC fines super fund for misleading 'independent' advice message

ASIC has announced that HostPlus has paid a \$12,600 Infringement Notice for allegedly misleading claims about offering 'independent advice' in a recorded telephone message.

APRA releases Approved Audit Report Form for 2018-19

APRA has released the Approved Audit Report Form for superannuation funds with reporting periods ending on or after 30 June 2019.

APRA reminds super funds about fee cap measures on low balances

APRA has sent a letter to all RSE licensees reminding them that recent legislation will require them to address account erosion due to excessive fees or unnecessary insurance.

Fact sheets for foreign investors of Australian residential real estate

The ATO have recently published two fact sheets to help foreign owners and investors of Australian residential real estate meet their foreign investment obligations in Australia.

APESB webinar on proposed quality management standards

This one-hour live webinar will provide: an overview of the requirements under proposed International Standards on Quality Management (ISQM).

TAXATION

Requirement to lodge 2019 tax and other returns made

The [Notice of Requirement to Lodge a Return for Income Year Ended 30 June 2019](#) has been registered. This 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; and member information statements by superannuation providers. The Notice also covers use of approved forms for lodgment, lodgment deferrals, lodgment exemptions, and penalties for non-lodgment.

The [Notice of Requirement for Parents with a Child Support Assessment to Lodge for the Income Year Ended 30 June 2019](#) has also been registered. 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. The return must be in the approved form.

TPB releases draft guidance: engagement letters, transfers of business

The Tax Practitioners Board has released 2 draft guidance practice notes, designed to provide assistance to practitioners in understanding their obligations under Tax Agents Services Act 2009, but are not binding. The closing date for submissions for both documents is 7 June 2019.

[TPB Practice Note TPB \(PN\) D40/2019](#) provides guidance on letters of engagement. When finalised, it will replace TPB(I) 01/2011: Letters of engagement. It addresses a number of issues including the following: (i) what is an engagement letter and what can it cover?; (ii) are engagement letters required by the TASA?; and (iii) what should an engagement letter contain?.

[TPB Practice Note TPB \(PN\) D41/2019](#) provides guidance to tax (financial) advisers in understanding their obligations under the Code of Professional Conduct when executing a transfer of business, including confidentiality issues. It addresses the following: (i) what is a transfer of business?; (ii) factors to consider when executing a transfer of business; and (iii) practical examples involving transfers of business.

Charities Annual Information Statement due date fast approaching

Charities who report on a calendar year (from 1 January to 31 December) have until 30 June 2019 to submit their 2018 Annual Information Statement. To submit the Annual Information Statement, charities will need to log into the new Charity Portal. Charities that have not logged into the Charity Portal since October 2018 will find their username and password will have changed. The ACNC says they should visit acnc.gov.au/charityportal for instructions.

More information about the 2018 Annual Information Statement, including a helpful checklist and guide, is available on the ACNC website.

Political advocacy and the election: what charities can and can't do

With the 2019 Federal Election almost here, ACNC Commissioner Dr Gary Johns [says](#) it is important for registered charities to familiarise themselves with their obligations regarding political advocacy and campaigning. Advocacy and campaigning can be legitimate and effective ways of furthering the charitable purposes of a charity. However, there are lines that a charity should not cross, the Commissioner says. He said the ACNC has developed guidance to help charities decide what advocacy they can appropriately undertake and what they should avoid.

In short, the Commissioner says it is okay for a charity to have a purpose of advancing public debate and to promote or oppose a change to a law, policy or practice in the Commonwealth, a state or territory or another country where this furthers or aids another charitable purpose. However, he said it is not okay for a charity to have a purpose to promote or oppose a political party or a candidate for political office or to engage in or promote activities that are unlawful and that are contrary to public policy.

STP exemptions and deferrals – ATO reminders

With reported unpreparedness for Single Touch Payroll (STP), mainly among small businesses, and with employers having less than 19 employees needing to report their employees' tax and super information through STP from 1 July 2019, the ATO has reminded businesses about the STP exemptions and deferrals that are available.

Under STP, there are [exemptions for reporting](#): through STP for a particular financial year, or certain payments; and certain employees through STP. In relation to deferrals:

- For employers with 20 or more employees, the ATO [says](#) their software provider may have applied to the ATO for a later start date for STP reporting which covers them as an existing client. Employers not able to start reporting by their software provider's deferral date will need to apply for their own deferral.
- For employers with 19 or less employees, the ATO says if they currently use payroll software which offers STP reporting, they can update their product and start reporting any time up to 30 September 2019. If an employer knows they won't be able to start before 30 September 2019, the ATO says they or their registered agent can ask the ATO for a deferral.
- For a recurring deferral, the ATO says if there are extenuating circumstances which impact an employer's ability to regularly report on or before pay day (eg if the employer regularly experiences intermittent internet connectivity issues which means the ATO might receive its report a couple of days after pay day), they can apply for a recurring deferral.

Payment summaries, STP and myGov account this tax time

While up to 70% of SMEs are not ready for Single Touch Payroll (STP), their employees may face some changes this tax time. As a result of the introduction of STP, those taxpayers may need a myGov account in order to get the payment summary details they need to complete their 2019 tax returns.

How taxpayers get their end of financial year information from their employers showing their earnings for the year (also known as a payment summary or income statement) depends on how their employer reports their income, tax and super information to the ATO. The ATO [says](#) taxpayers will be provided with either an income statement via myGov or a payment summary – if an employer is not yet reporting through STP, they will continue to provide employees with a payment summary by 14 July (as they do now). The ATO says employers will let their employees know if they won't be giving them a payment summary this year.

Jail time for PAYG withholding fraud

A Mildura man has been [sentenced](#) to 6 months' jail for PAYG Withholding fraud relating to illegal phoenix activity in the labour hire market for the agricultural industry.

The man had used a number of shell companies to illegally fail to pay more than \$664,000 in PAYG relating to 49 employees. In addition, he arranged for more than 136 false income tax returns to be lodged on behalf of these employees (many of whom had been on working holiday visas and had returned overseas). An amount of \$187,994 in tax refunds was paid. The farm work included fruit pruning, picking and packing services to various locations around Queensland and WA.

Affordable Housing Initiative Donations – Addendum to CR 2019/27

The ATO has [issued](#) an Addendum to the recently released Class Ruling CR 2019/27 (Deductibility of donations to Community Housing Canberra Limited under a Payment Direction Deed).

The Addendum makes various changes to CR 2019/27 to update the description of the scheme. Date of effect: 1 April 2019.

'Enterprise' meaning for fuel tax purposes – Addendum to FTD 2006/3

The ATO has [issued](#) an Addendum to Fuel Tax Determination FTD 2006/3, its ruling on the meaning of 'enterprise' for fuel tax purposes.

The Addendum makes minor amendments to the FTD to remove certain references.

Bride and Prejudice series not a documentary

The AAT has affirmed a decision of Screen Australia not to issue a film producer certificate for the Bride and Prejudice series as it was not considered to be a documentary: [Seven Network \(Operations\) Limited and Screen Australia](#) [2019] AATA 798, AAT, File No 2018/1940, Rayment DP, 1 May 2019. The Seven Network applied for a film producer certificate under s 376-65 of the ITAA 1997 for the Bride and Prejudice television series. The central issue was whether the series was a 'documentary' as defined in s 376-25. The series followed the ups and downs of the marriage plans of 5 couples of whom 3 were heterosexual and 2 were same sex. Each couple faced opposition to the marriage from at least one parent, on the basis of race bias, religion, general opposition to same sex unions, concern about age difference or, in one case, concern that the couple was too young to marry. All the marriages except one went ahead.

The AAT decided that the series was not a 'creative treatment of actuality' and therefore did not fall within the definition of 'documentary' in s 376-25. According to the AAT, the series did not 'demonstrate original thought or expression', none of the interviews in the series involved 'events explored creatively' and the subject matter was not 'explored critically or in an original way'.

Greens propose double GST registration threshold

The Greens have [launched](#) their small business policy. It includes:

- A 110% small business wages credit. The proposal involves allowing small businesses with a turnover of up to \$2 million to claim a tax deduction for 110% of their wages bill.
- A doubling of the GST registration threshold from \$75,000 to \$150,000 for small businesses, and from \$150,000 to \$300,000 for not-for-profits. These thresholds will be indexed to inflation.
- Seeking removal of small business employers from the superannuation collection process. The Greens believe that super payments by SMEs for their workers' super should be included with tax payments made by employers to the ATO.

FINANCIAL SERVICES

ASIC consults on lifting standards of complaints handling

ASIC has [initiated public consultation](#) on new standards about how financial firms handle consumer and small business complaints. The proposed standards, which include new mandatory data reporting, are designed to improve the way that consumer complaints are dealt with across the financial system and make firms' complaints handling performance transparent.

Financial firms will be required by ASIC to meet the new standards when they deal with consumer complaints through their Internal Dispute Resolution (IDR) arrangements.

IDR is the first step in the complaints handling process - an opportunity for the financial firm to investigate, resolve or redress a problem before a consumer or small business can escalate their complaint to the Australian Financial Complaints Authority (AFCA). All financial firms (including banks, insurers, credit providers,

advisors and most superannuation funds) are required by legislation to have an IDR system that meets ASIC's standards. Comments are due by 9 August 2019.

Share buy-backs – Class Rulings CR 2019/30-32

The ATO has [issued](#) 3 Class Rulings:

- CR 2019/30 – Pinewood Community Financial Services Limited – off-market share buy-back;
- CR 2019/31 – Caltex Australia Limited – off-market share buy-back; and
- CR 2019/32 – Australian Olympic Committee – medal incentive funding payments. The ATO accepts that these payments are not assessable income.

Call for single regulatory regime for tax financial advisers

The Financial Services Council (FSC) has called for the regulation of tax financial advisers (TFAs) to be streamlined into a single regulatory regime under the Financial Adviser Standards Ethics Authority (FASEA). In a submission to the Government's independent [review](#) of the effectiveness of the Tax Practitioners Board (TPB) and the *Tax Agent Services Act 2009*, the FSC said consumers should not have to engage with the TPB for the tax component of the advice they receive, as well as a monitoring body under the FASEA framework for the financial advice received.

FSC Director of Policy, Allan Hansell, said there is a compelling case to streamline the regulatory regime to a single framework under FASEA. According to the FSC, the new FASEA framework brings financial advisers in line with professions such as law and accounting. The FSC believes it is time to now integrate the TFA requirement into the FASEA regime to support a single Code and a single monitoring body. Lawyers are able to give tax advice without needing to be registered as a tax agent, a precedent that should be followed for financial advisers, Mr Hansell said.

SUPERANNUATION

Protecting Your Super – how new law may affect SMSFs

Under the Protecting Your Super package, the ATO [says](#) SMSFs may receive a rollover of consolidated unclaimed super money for members. The *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* introduces a number of reforms to protect individuals' super savings from undue erosion by fees

and unnecessary insurance. Super providers, excluding SMSFs and small APRA funds, will be required to report and pay inactive low-balance accounts to the ATO as a new category of unclaimed super money (USM) for the first time by 31 October 2019.

The ATO says it will now be able to proactively consolidate eligible USM into eligible active super accounts, including SMSFs and small APRA funds, if an individual hasn't requested a direct payment of this money or for it to be rolled over to a fund of their choice. While SMSFs won't be required to report and pay inactive low-balance accounts, they may receive a rollover of consolidated USM for members, the ATO said. The ATO says it will start proactive consolidation from November 2019 and notify individuals when it has consolidated their USM into an active super account.

ATO sets up disqualified SMSF trustees register

The ATO said it recently announced that it would provide SMSF professionals with a register of trustees that the ATO had disqualified. Feedback from the sector, the ATO said, was that it was difficult to determine if a new client had been disqualified. When setting up an SMSF and appointing trustees, it's necessary to ensure a trustee hasn't been disqualified due to past contraventions or if the ATO has identified them as not 'fit and proper' to be a trustee.

The ATO has now [announced](#) that it is providing SMSF professionals with a Disqualified trustees register to help identify, and prevent from re-entering the sector, those who've been disqualified. The register provides information already publicly available on the Government Notices Gazette, with some added search functionality. The ATO says the register will be updated quarterly and includes trustees who have been disqualified since 2012, when this information was first published electronically.

Super reform guidance: updates and withdrawals

The ATO has released updated versions of two Guidance Notes and made minor changes to their wording: [GN 2017/1](#) – New transfer balance cap for retirement phase accounts; and [GN 2017/8](#) – Total superannuation balance.

The ATO also withdrew the following drafts: Draft Law Companion Ruling LCR 2018/D10 – Non-arm's length income and Draft consolidation to LCR 2016/12 – Superannuation reform: total superannuation balance.

ATO reminds SMEs about paying super for backpackers

The ATO has [reminded](#) businesses that employ backpackers that they may need to pay superannuation guarantee (SG) for them. Backpackers on working holidays are considered temporary residents, and are entitled to SG if they are paid \$450 or more before tax in a calendar month. Once they leave Australia, they can claim the super paid to them as a Departing Australia superannuation payment (DASP) providing all requirements are met.

The ATO says those who employ backpackers should:

- check they hold a valid visa using the Visa Entitlement Verification Online (VEVO) service;
- use the ATO's 'Super guarantee eligibility decision tool' to determine if they are eligible for super;
- offer them a choice of super fund if requested, and follow the same steps they would for any other worker before they start working for them;
- advise them that they can start their DASP application using the ATO's free online application system while they are in Australia.

Reporting requirements when finalising an SMSF audit

When auditing a self-managed superannuation fund (SMSF), if an approved auditor forms an opinion that a contravention has occurred, there are a number of steps that must be taken.

The ATO have just published an article detailing these steps, and the services we provide if you require assistance on complex matters during an SMSF audit.

The article can be found [here](#).

Reminder: due dates for SMSF annual returns and TBARs

Recently the ATO published an article reminding trustees and professionals about the important lodgment dates that are approaching for self-managed superannuation funds (SMSFs).

This article has recently been updated to include a reminder about the SMSF approved auditor's report and the obligations that must be met before lodging an SMSF Annual Return.

A link to the updated article can be found [here](#).

REGULATOR NEWS

ASIC fines super fund for misleading 'independent' advice message

ASIC has [announced](#) that HostPlus Pty Ltd (HostPlus) has paid a \$12,600 Infringement Notice for allegedly misleading claims about offering 'independent advice' in a recorded telephone message on HostPlus' main consumer telephone number. In response to ASIC's concerns, HostPlus immediately removed the use of the word 'independent' from the recorded telephone message. The payment of the fine is not an admission of a contravention of the ASIC Act.

ASIC said that from July 2016 to late March 2018, the recorded telephone message referred to a free consultation available to members with an Industry Fund Services Limited (IFS) licensed financial planner. It then referred to the advice as 'independent'. ASIC was concerned that HostPlus and IFS were not independent of each other because HostPlus employees were appointed as authorised representatives to provide financial advice under IFS' Australian financial services licence. According to ASIC, HostPlus also paid service fees to IFS for adviser services and at the relevant time, HostPlus was a shareholder of IFS' ultimate holding company. Note that 'independent' is a restricted term under s 923A of the *Corporations Act 2001*.

APRA releases Approved Audit Report Form for 2018-19

APRA has [released](#) the Approved Audit Report Form for superannuation funds with reporting periods ending on or after 30 June 2019.

APRA reminds super funds about fee cap measures on low balances

APRA has [sent](#) a letter to all RSE licensees reminding them that the recent passage through Parliament of the *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* (received Royal Assent on 12 March 2019) will require them to implement a number of reforms to address account erosion due to excessive fees or unnecessary insurance. Specifically, the reforms impose a 3% fee cap on member account balances below \$6,000, prohibit exit fees, limit the provision of insurance on inactive accounts and require the transfer of inactive low-balance accounts to the ATO for the purpose of reunifying these accounts with active accounts of the member (ATO account sweep).

APRA considers the reforms to be an important step in improving member outcomes across the entire superannuation industry, particularly for those members with low account balances. APRA said it expects that RSE licensees will implement the reforms in ways that promote the outcomes the reforms are seeking to achieve and reflect the obligation to act in members' best interests. APRA has also written specifically to RSE licensees authorised to provide an Eligible Rollover Fund (ERF) on the implications of the fee caps and the ATO account sweep on the future viability of ERFs, and the capacity of RSE licensees of ERFs to meet their fiduciary duties to members.

Fact sheets for foreign investors of Australian residential real estate

We have recently published two fact sheets to help foreign owners and investors of Australian residential real estate meet their foreign investment obligations in Australia.

The *Vacancy fee return: fact sheet for foreign owners* is available in [English](#), [Chinese traditional](#) and [Chinese simplified](#).

The *Residential property investment: fact sheet for foreign owners* is also available in [English](#), [Chinese traditional](#) and [Chinese simplified](#).

The fact sheets detail important steps foreign persons must take when they own, invest or are planning to invest in Australian residential real estate, including:

- getting Foreign Investment Review Board (FIRB) approval before investing
- recording property on the ATO Land and water register
- lodging an annual Vacancy fee return.

The Australian Government introduced the annual Vacancy fee in December 2017 as part of the comprehensive housing affordability plan. It requires foreign owners of residential dwellings in Australia to lodge an annual Vacancy fee return if they:

- made a foreign investment application for residential property after 7.30pm AEST on 9 May 2017, or
- purchased under a New Dwelling Exemption Certificate that a developer applied for after 7:30pm AEST on 9 May 2017.

Vacancy fee returns must be lodged within 30 days of the end of each vacancy year. The vacancy year is usually the 12 month period from the anniversary of the settlement date.

The vacancy year is unique to each dwelling held by a foreign owner. Foreign owners must lodge a Vacancy fee return for each dwelling on their land.

More information

For more information about the Vacancy fee, visit the ATO website at ato.gov.au/vacancyfee or watch the live webinar recording from September on [atoTV](#).

You can also find more information about investing in Australian residential real estate in the *Residential property investment: fact sheet for foreign owners*. The fact sheet is available in [English](#), [Chinese traditional](#) and [Chinese simplified](#).

We encourage you to share this information with your clients who may be impacted by the change.

APESB webinar on proposed quality management standards

About the webinar

This one-hour live webinar will provide: an overview of the requirements under proposed International Standards on Quality Management (ISQM); show how these standards may apply in practice; and give a comparison of the proposals to existing quality control and risk management requirements.

Content description

Accounting Professional and Ethical Standards Board (APESB) will conduct an interactive webinar in relation to Proposed International Standards on Quality Management ED-ISQM 1 & ED-ISQM 2.

The webinar will address and provide attendees with:

- an overview of the requirements under the proposed standards quality management standards;
- an understanding of how the standards may apply in practice, including in relation to risk assessment, monitoring and remediation;
- a comparison of the proposals to existing requirements under APES 320 Quality Control for Firms and APES 325 Risk Management for Firms; and



- an opportunity to provide feedback in respect of the proposed standards via poll questions.

If you are interested in this FREE webinar and want to earn 1 CPD point, then click below and register.

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