TAXATION

TPB targets practitioners responsible for overclaimed tax deductions

Tax Practitioners Board has announced it will vigorously target 2,000 tax practitioners identified as being the highest risk.

ATO Decision Impact Statement

ATO has released a Decision Impact Statement on Schweitzer and FCT [2019] AATA 1100 which deals with release from tax-related liabilities.

Tax fraudster jailed over $500,000 in refunds

The ATO has reported that a man has been sentenced to five years jail after it was found that he lodged 62 fraudulent income tax returns.

STP status list to be issued by the ATO

ATO will be providing tax agents with a list of their clients' single touch payroll status soon.

Black economy crackdown – Bathurst and Hobart

ATO is planning to visit 300 small businesses in Bathurst and 300 small businesses on the eastern shores of Hobart during October and November.

Tax Integrity (No 1) Bill passed by Senate

The Treasury Laws Amendment (2019 Tax Integrity and Other Measures No 1) Bill 2019 has been passed by the Senate with various amendments.

Gaming machine entitlements not deductible

The High Court has unanimously allowed the ATO's appeal against a decision that a taxpayer was entitled to a deduction for an amount paid for gaming machine entitlements.

Amended assessments – onus of proof

Yet another taxpayer has mostly failed to satisfy the AAT that amended assessments were excessive.

Working holidaymaker not an Australian resident

The Federal Court has agreed with the ATO that a young American who spent her "gap year" working in Australia was not an Australian resident.

Apportioning GST on financial supplies

The ATO has released PCG 2019/D7 to explain its approach to GST apportionment of acquisitions that relate to the supply of certain financial products.

Extent of creditable purpose for providers of financial supplies

The ATO has released GSTR 2006/3DC1 which deals with determining the extent of creditable purpose for providers of financial supplies.

FINANCIAL SERVICES

Ending grandfathered commissions for financial advisers

The Bill to ban grandfathered conflicted remuneration paid to financial advisers from 1 January 2021 has been passed and awaits Royal Assent.

Financial adviser disciplinary system - update

Government has advised that it is working to establish a new disciplinary stem and a single disciplinary body for financial advisers by early 2021.

AFS licensee statements due by 31 October

ASIC has reminded all AFS licensees to loge their annual financial statements and auditor reports by the due date.

FASEA exam update

The Financial Adviser Standards and Ethics Authority (FASEA) has provided an update on the financial adviser exam.

APRA not to appeal IOOF court decision

Australian Prudential Regulation Authority has advised it will not appeal the Federal Court decision to dismiss APRA's court action against IOOF.

CommInsure charged with hawking offences

ASIC has reported CommInsure has been charged with 87 counts of offering to sell insurance products in the course of non-compliant unsolicited telephone calls.

SUPERANNUATION

Super Guarantee opt-out for high-income earners: form

ATO has advised that the form for high-income earners with multiple employers to opt-out of super guarantee will be available from 21 October 2019.

ATO to contact 2,500 employers for super guarantee non-payment

The ATO is set to notify 2,500 employers for paying their Super Guarantee (SG) contributions late during 2018-19.

SMSF establishment red flags – ASIC factsheet

ASIC has released a factsheet to make investors aware of the potential downside of establishing their own SMSF.

Super TPD insurance: ASIC report

ASIC has released a report calling on super trustees and insurers to improve outcomes from total and permanent disability (TPD insurance).

REGULATOR NEWS

Parliamentary review of banks and super: public hearings

The House of Representatives Standing Committee on Economics has announced that it will scrutinise the superannuation sector in public hearings.

ASIC to appear before Parliamentary committee

The House of Representatives Standing Committee on Economics has announced that ASIC will appear at a public hearing on in Canberra.

Assessing whether an arrangement is a labour hire service - caution

The Labour Hire Authority in Victoria has advised that a business which supplies workers in any occupation to another business in any industry may be a labour hire provider under the law *(Labour Hire Licensing Act 2018 (Vic.)).*

Revision of Guidance Statements (GS) | Auditing and Assurance Standards Board Survey

The Auditing and Assurance Standards Board (AUASB) has released a short survey (closes **25 October 2019**) to gather feedback on the AUASB's Guidance Statements (GS) Revision Project.

The time is running out for labour hire providers to apply for a licence to keep operating in Victoria.

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TAXATION

TPB targets practitioners responsible for overclaimed tax deductions

The Tax Practitioners Board (TPB) has announced that it will vigorously target 2,000 tax practitioners identified as being of the highest risk. Speaking at a recent conference, Chair of the TPB, Mr Ian Klug AM, outlined the TPB's renewed compliance approach to better protect ethical practitioners and their clients. "These highest risk practitioners and unregistered agents have significant reach into the community, and are linked to around 4,600 controlled entities and 2.9 million associate clients," Mr Klug said. Early analysis of 2018 tax returns for these clients "alarmingly suggests" overclaiming of work-related expenses to the tune of $1 billion, he said. In addressing this issue, the TPB has strengthened its collaboration with co-regulators, with recent data sharing with the ATO focusing on reducing the tax gap through action targeting black economy income and incorrect work-related expense claims.

ATO Decision Impact Statement

The ATO has released a decision impact statement (DIS) on Schweitzer and FCT [2019] AATA 1100. In that case, the AAT affirmed an ATO decision not to exercise its discretion under Div 340 of Sch 1 to the TAA to release the taxpayer from a variety of tax-related liabilities (including liabilities subject to judgment). Contrary to the submissions of both parties, the AAT found that the judgment against a taxpayer for a sum that reflects the amount of the taxpayer's tax-related liability causes the tax-related liability to cease to exist. This had the consequence that the Commissioner does not have the power to release a taxpayer's judgment debt, nor the power to release a tax-related liability the subject of a judgment obtained by the Commissioner, as that tax-related liability ceased to exist upon judgment having being obtained.

The ATO said it disagrees with the AAT's decision in respect of the judgment debt issue. The ATO maintains that an underlying tax-related liability does not cease to exist upon a judgment against the taxpayer for that tax-related liability. As the AAT's overall decision was in favour of the Commissioner, and the taxpayer did not appeal, the ATO said it was unable to challenge the AAT's conclusions on that issue. Comments are due by 1 November 2019.

Tax fraudster jailed over $500,000 in refunds

The ATO has reported that a man has been sentenced to five years jail at the Brisbane District Court after it was found that he lodged 62 fraudulent income tax returns, attempting to obtain over $500,000 in refunds. Between August 2015 and July 2016, the man stole the identity of 52 taxpayers by putting in place an elaborate online job scam through various companies. After conducting fake interviews over the phone, the man would email applicants to confirm they had been successful in their application for the job. He would also request a scanned copy of their driver's licence, bank account details, tax file number and shirt size, the ATO said.

The ATO also said that the man used this information to fraudulently create myGov accounts, or if they already had an account, he used the information to take over their account and change the details as required. He would then link the myGov accounts to ATO online services where he would lodge false income tax returns in their names. The resulting refunds were credited to one of 63 bank accounts in his control.

STP status list to be issued by the ATO

The ATO says that small employers have been transitioning to Single Touch Payroll (STP) since 1 July 2019. In the first three months, over 400,000 small employers made the transition with more coming on board every day.

In the coming weeks the ATO said it will provide tax agents with a list of their clients' STP status. The list will include those tax agent's clients who: are yet to transition; have applied for, or have been granted a deferral or exemption; and have opted for a concessional reporting option. The ATO also says that it will be contacting those employers directly to remind them of their STP obligations.

Black economy crackdown – Bathurst and Hobart

The ATO has announced that it is planning to visit around 300 small businesses in Bathurst and 300 small businesses on the eastern shores of Hobart during October and November as part of its work to tackle the black economy. The Hobart visits will take place in Lindisfarne, Geilston Bay, Rose Bay, Bellerive, Howrah, Montagu Bay, Rosny, Rosny Park and Warrane. Assistant Commissioner

Peter Holt said ATO officers will be visiting businesses in these locations following a number of tip-offs from the community about some businesses engaging in black economy activities, including paying wages off the books in cash, not providing invoices and not reporting all of their sales. "Our intelligence also suggests that some businesses are not declaring all of their income to the ATO, and avoiding their employer obligations by not paying staff entitlements like super and tax contributions", Mr Holt said.

Tax Integrity (No 1) Bill passed by Senate

The Treasury Laws Amendment (2019 Tax Integrity and Other Measures No 1) Bill 2019 has been passed by the Senate with one Government, two Opposition and two Centre Alliance amendments. The Bill now returns to the House of Reps for consideration of the Senate amendments. The Government amendment proposes three exceptions for the measure that would deny deductions in relation to holding vacant land including: (i) primary producers; (ii) land available for use in carrying on a business; and (iii) structures affected by natural disasters or other exceptional circumstances (for up to three years).

The two Centre Alliance amendments are in relation to the ATO's disclosure of business tax debts to a credit reporting bureau and would require the Minister to consult with the Inspector-General of Taxation. The Opposition amendments will also increase from 21 to 28 days the notice period before the ATO can disclose a business tax debt. The Senate also agreed to bring forward the start date to 1 January 2020 for the measure that will ensure employers cannot count an individual's salary sacrifice contributions to reduce the employer's minimum super guarantee contributions. The Bill also proposes to prevent the small business CGT concessions from being available for assignments of partnership income and extends the anti-avoidance rule for circular trust distributions to family trusts.

Gaming machine entitlements not deductible

The High Court has unanimously allowed the ATO's appeal against a decision that the operator of a pub in Victoria was entitled to a deduction for the amount paid for gaming machine entitlements (GMEs): FCT v Sharpcan Pty Ltd [2019] HCA 36 (High Court, Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ, 16 October 2019). The taxpayer was the beneficiary of a trust, the trustee of which operated a pub in Victoria. The trustee conducted gaming activities at the pub as an approved venue

operator, having successfully bid in May 2010 for 18 GMEs. The acquisition price ($600,300) was paid over six years by quarterly payments under a deferred payment arrangement. The income derived by the trustee from gaming represented between 16% and 20% of its gross revenue. The evidence showed that if the trustee had not successfully bid for the 18 GMEs, the integrated hotel business would have been significantly at risk. Previously, a majority of the Full Federal Court upheld an AAT decision that, in calculating the net income of the trust for the 2010 income year, the trustee was entitled to a deduction for the GMEs under s 8-1 of the ITAA 1997. The High Court (in a joint judgment) has overturned the Full Court's decision.

The High Court said that the determination of whether an outgoing is incurred on capital account or revenue account depends on "whether the outgoing is calculated to effect the acquisition of an enduring advantage to the business". In this case, without the GMEs, the trustee could not continue to operate the gaming aspect of the hotel business. The GMEs were necessary for the structure of the business and therefore they were assets of enduring value. Accordingly, the expenditure was held to be on capital account and therefore not deductible. It added that although the purchase price was paid in several instalments, it was expenditure "made once and for all with a view to bringing into existence an advantage of enduring benefit to the trustee's mixed hotel business". Further, the intended source of funding - receipts of gaming income derived from the operation of the GMEs - did not imply that the purchase price of the GMEs was not a once-and-for-all outgoing for the acquisition of something of enduring advantage. An argument that the expenditure was deductible under s 40-880 of the ITAA 1997 (as "blackhole expenditure") was also rejected.

Amended assessments – onus of proof

Yet another taxpayer has mostly failed to satisfy the AAT that amended assessments were excessive: Ke and FCT [2019] AATA 4057 (AAT, File Nos 2018/1631, 2018/1632, 2018/1633, Grigg M, 3 October 2019). The taxpayer was a registered tax agent. Following an audit of her tax affairs, the ATO issued amended assessments increasing her taxable income by $110,126 for 2013 and by $162,742 for 2014. The ATO also issued GST assessments for 2013 and 2014 totalling $13,096, as well as administrative penalties totalling $93,763 for intentional disregard of the law.

The AAT largely upheld the amended assessments, finding the taxpayer and other witnesses to be unreliable. In addition, there was a lack of documents corroborating

her evidence. The taxpayer was allowed a deduction for part of the interest on a loan used to help buy a rental property. The shortfall penalties were largely upheld (they were reduced only to reflect the reduction in taxable income resulting from the partially successful claim for the interest deduction). The GST assessments were also upheld as the taxpayer should have been registered for GST from 1 July 2013 as her annual turnover exceeded $75,000.

Working holidaymaker not an Australian resident

The Federal Court has agreed with the ATO that a young American who spent her "gap year" working in Australia was not an Australian resident: Stockton v FCT [2019] FCA 1679 (Federal Court, Logan J, 11 October 2019). The taxpayer was a US citizen who spent her "gap year" in Australia on a working holiday in a variety of locations and working different jobs. Her wages were paid into an Australian savings account she had opened. She retained a small balance in the account in case she might return to Australia one day. She had a second Australian bank account which she used on a day to day basis. The taxpayer had her own room in her family's home in Florida, where she kept those belongings, she did not consider necessary to take to Australia. She returned to the family home after visiting Australia and stayed there until July 2018, for most of that time undertaking pre-medical college studies. She retained her US bank account while in Australia.

The ATO considered that the taxpayer was a non-resident for 2016-17 and assessed her to pay tax of $4,008 on taxable income of $15,494. She had declared that she was a non-resident on her Australian tax file number declaration. The Court firstly held that the taxpayer was not a "resident" according to the ordinary meaning of that term (the first test of residency) as her association with Australia during the 2016-17 income year was only ever "casual". It also held that although the taxpayer had been in Australia for more than half the income year, she did not satisfy the second residency test as the ATO was correctly satisfied that her usual place of abode was in the USA. "That is where she had usually lived for her whole life before coming to Australia. That is to where she returned to live for an extended period after she visited here. And that is where, during her visit here, she intentionally, and permissively, retained her residential base.".

Apportioning GST on financial supplies

The ATO has released Draft Practical Compliance Guideline PCG 2019/D7 to explain its approach to GST apportionment of acquisitions that relate to the supply of certain financial products. The draft PCG sets out the framework used to assess the risk associated with the various methods to determine the extent of creditable purpose of these acquisitions. It is closely linked with GSTD 2018/D1, which deals with determining the creditable purpose of acquisitions in a credit card issuing business. Comments are due on 1 November 2019. When finalised, the PCG is proposed to take effect from 1 January 2020.

Extent of creditable purpose for providers of financial supplies

The ATO has released GSTR 2006/3DC1 which is an updated draft version of GSTR 2006/3. It deals with determining the extent of creditable purpose for providers of financial supplies. It reflects and incorporates feedback received on GSTD 2018/D1 (determining creditable purpose for credit card issuing businesses) and the draft addendum to GSTR 2004/4 (assignment of payment streams under securitisation arrangements). Most of the changes are minor and the main change is where taxpayers use a direct estimation method to determine extent of creditable purpose (paras 82A, 82B and 101A inserted). Comments are due on 1 November 2019.

FINANCIAL SERVICES

Ending grandfathered commissions for financial advisers

The Treasury Laws Amendment (Ending Grandfathered Conflicted Remuneration) Bill 2019 was passed by the Senate without amendment and awaits Royal Assent. The Bill will ban grandfathered conflicted remuneration paid to financial advisers from 1 January 2021. The Bill goes further than the Royal Commission recommendation by including an obligation on AFS licensees and financial product issuers to rebate product holders for any grandfathered conflicted remuneration that they are legally obliged to pay after 1 January 2021. The Bill also enables regulations to provide for a scheme to rebate conflicted remuneration to affected "product holders" (ie customers) via a payment or monetary benefit (eg reduced fees). Draft Regulations were previously released on 28 March 2019.

Financial adviser disciplinary system - update

The Government has advised that it is working to establish a new disciplinary system and single disciplinary body for financial advisers by early 2021, as recommended by the Banking Royal Commission. The new disciplinary system proposes to bring financial advisers into line with other professions (such as lawyers and accountants). Legislation to implement the new system is expected to be introduced in 2020. A Code of Ethics for financial advisers is also set to be applied by law from 1 January 2020. Treasury will begin consulting on the new system with roundtables to be held later in 2019.

ASIC has also announced that it will provide relief to AFS licensees from the financial adviser compliance scheme obligations following the government's announcement above. As a result, applicants have withdrawn their applications to ASIC for approval of their compliance schemes. ASIC said it has taken immediate action to provide certainty for AFS licensees that they will not be in breach of the law because their financial advisers were not able to register with an ASIC-approved compliance scheme by 1 January 2020. A three-year exemption will be granted to all AFS licensees to ensure that their financial advisers are covered by a compliance scheme, however, AFS licensees are still required to take reasonable steps to ensure that their financial advisers comply with the code from 1 January 2020, ASIC said.

AFS licensee statements due by 31 October

ASIC has reminded all AFS licensees to lodge their annual financial statements and auditor reports by the due date. Body corporate AFS licensees that are not disclosing entities, and have a financial year ending 30 June, are required to lodge their financial accounts by 31 October 2019. Limited AFS licensees that do not deal with client money must lodge an annual compliance certificate along with a profit and loss statement and a balance sheet each financial year, also by 31 October 2019.

ASIC Commissioner, Sean Hughes, said AFS licensees should have adequate policies and procedures in place to ensure they are able to meet their financial reporting obligations. Mr Hughes said ASIC will pursue AFS licensees who don't comply and, where appropriate, consider taking action to suspend or cancel a licence. Since October 2016, ASIC has suspended 9 AFS licences and cancelled 22 AFS licences for failing to lodge their annual financial statements and auditor reports.

FASEA exam update

The Financial Adviser Standards and Ethics Authority (FASEA) has provided an update on the financial adviser exam. FASEA said the December 2019 exam will be held in 19 centres across Australia from 5-9 December. Registrations for the exam will close on 8 November. Over 2,430 advisers have already registered for the December exam. Online practice questions are available on the FASEA Website. Dates and venues have also been finalised for sittings of the FASEA exam on 13-18 February 2020 and 2-7 April 2020. The September exam was held on 19-23 September 2019 with 1,697 advisers sitting the exam over 79 sessions. The results for the September exam will be released in mid-November 2019.

APRA not to appeal IOOF court decision

The Australian Prudential Regulation Authority (APRA) has advised that it will not appeal the Federal Court decision to dismiss APRA's court action against IOOF entities, directors and executives. APRA said the case examined a range of legal questions relating to superannuation law and regulation that had not previously been tested in court, relating to the management of conflicts of interest, the appropriate use of superannuation fund reserves and the need to put members' interests above any competing priorities.

APRA Deputy Chair Helen Rowell said the judgment nevertheless raised some issues of wider importance for APRA in its supervision of superannuation trustees. APRA is considering any further action that may need to be taken in relation to these, such as revising its prudential standards or seeking legislative amendments, to ensure that member interests are protected to the maximum extent possible. APRA notes that, notwithstanding the decision not to appeal the judgment, additional licence conditions that APRA imposed on IOOF in December remain in force and APRA's strengthened supervision focus on ensuring that IOOF implements the changes needed to comply with these conditions continues.

CommInsure charged with hawking offences

ASIC has reported that Colonial Mutual Life Insurance Society Ltd (trading as CommInsure) has been charged with 87 counts of offering to sell insurance products in the course of non-compliant unsolicited telephone calls.

ASIC alleged that between October and December 2014, CommInsure, through its agent, telemarketing firm Aegon Insights Australia Pty Ltd (Aegon), unlawfully sold life insurance policies known as Simple Life over the phone. CommInsure provided customer contact details to Aegon from the existing customer database of its parent company Commonwealth Bank of Australia (CBA). ASIC alleged that the calls to CBA customers were unsolicited, and that CommInsure did not comply with all of the hawking exceptions in s 992A(3) of the Corporations Act 2001.

SUPERANNUATION

Super Guarantee opt-out for high-income earners: form

The ATO has advised that its Super guarantee opt out for high income earners with multiple employers form (NAT 75067) will be available online from 21 October 2019. Following the enactment of the Treasury Laws Amendment (2018 Superannuation Measures No 1) Act 2019, eligible high-income employees with multiple employers can opt-out of the Super Guarantee (SG) regime to avoid unintentionally breaching the $25,000 concessional contributions cap. Super guarantee contributions are treated as concessional contributions and therefore employees with multiple employers whose income exceeds $263,157 are likely to breach the $25,000 concessional cap (as 9.5% of $263,157 = $25,000).

From 1 January 2020, the ATO said eligible employees can apply to the ATO for an "employer shortfall exemption certificate" (ss 19AA and 19AB of the SGAA). An application for a certificate can only be made by the employee (not the employer). It must be lodged in the approved form at least 60 days before the first day of the first quarter that it relates to. The ATO said it will only issue an exemption certificate once certain criteria are met and once issued, the certificate cannot be varied or revoked. An employer that is covered by an exemption certificate for a particular employee for

a specified quarter has a maximum contribution base of $0 for that employee for that quarter: s 19AA of the SGAA.

ATO to contact 2,500 employers for super guarantee non-payment

The ATO is set to notify 2,500 employers for paying their Super Guarantee (SG) contributions late during 2018-19. The ATO said it has completed an examination of SG contributions of some 75 million payment transactions for the first three quarters of 2018-19 for some 400,000 employers. The data has shown that 90-92% of contribution transactions by volume were paid on time, and 85-90% of transactions by dollar value were paid on time. It is now starting to actively use this data to warn employers who appear not to be paying the required SG on time, in full or at all. This is the first direct use of the STP reporting arrangements, based on what funds are reporting in relation to SG payments. In addition to contacting 2,500 employers who paid their SG contributions late during 2018-19, the ATO said it will send due-date reminders to a further 4,000 employers. It is also currently examining payment transactions and patterns for the fourth quarter of 2018-19.

As part of its standard SG audit work, the ATO said it has reviewed 27,000 cases for 2018-19. From this case work, it has contacted 22,000 employers and raised assessments for $805m in outstanding SG. This result includes the additional SG Taskforce case work funded by the Government as part of a 3-year investment. The taskforce cases resulted in nine out of 10 cases raising an assessment, with some 2,700 cases completed with assessments to the value of $127m. The ATO also issued 5,000 individual director penalty notices (DPNs) for 3,600 companies to a combined value of $283m. More immediately, the ATO said it is focused on the Protecting Your Super measure for inactive low balance accounts. Super funds are required to identify inactive low balance accounts as at 30 June 2019 and report and pay the unclaimed super money to the ATO by 31 October 2019. The ATO systems are ready to then proactively reunite this money with a member's active account, Mr O'Halloran said.

SMSF establishment red flags – ASIC factsheet

ASIC has released a factsheet, Self-managed superannuation funds: Are they for you?, to make investors aware of the potential downside of establishing their own SMSF. ASIC Commissioner, Danielle Press, said consumers are all too well aware of the potential benefits that might stem from using a SMSF, but are not equally alive

to the considerable risks and responsibilities that come with the deal. While SMSFs are an attractive option for investors wanting more control over their superannuation investment strategy, ASIC warns that it requires real skill, care and diligence to manage your own superannuation.

The factsheet will be sent to all newly registered SMSF trustees as a pilot in November 2019 when they elect to be regulated by the ATO. ASIC will then survey a number of the SMSFs to assess the usefulness of the factsheet. It will also be a useful resource for financial advisers when providing personal advice on SMSFs. ASIC has also previously identified eight "red flags" (see REP 575, June 2018) which, together or in part, make it extremely unlikely for an investor to gain any advantage from using an SMSF.

Super TPD insurance: ASIC report

ASIC has released a report calling on superannuation trustees and insurers to take action to improve consumer outcomes from total and permanent disability (TPD) insurance. The report, "*Holes in the safety net: A review of TPD insurance claims* (REP 633)", found "significant industry-wide problems" with the design of TPD insurance and the claims handling process. For example, half a million people, often working in casual roles or high-risk occupations, are covered by a very narrow TPD policy definition that only pays out in the most catastrophic circumstances, if they are unable to perform several "activities of daily living" (known as ADL cover), such as feeding, dressing or washing themselves.

ASIC Commissioner, Sean Hughes, said three TPD claims per day are assessed under the restrictive ADL definition, with 60% of claims assessed declined. People that hold this type of automatic cover through their super are paying for what is essentially "junk insurance", Mr Hughes said. ASIC also said it was inexcusable that insurers did not use, or in some cases even collect, data to enable them to identify poor consumer outcomes. Poor claims handling processes also contributed to some consumers withdrawing their claims (12% of claims lodged with insurers did not proceed to a decision). ASIC said it expects insurers and trustees to take steps to implement changes to their claims handling practices and to redesign TPD products so that they offer significantly better value for money. ASIC also expects insurers to invest in data resources and improve the quality of their data. This includes collecting data on outcomes for different types of TPD cover including claims assessed under restrictive definitions such as ADL, Mr Hughes said.

REGULATOR NEWS

Parliamentary review of banks and super: public hearings

The House of Representatives Standing Committee on Economics has announced that it will scrutinise the superannuation sector in public hearings on 21 and 22 November 2019 in Canberra, as part of its Review of the four major banks and other financial institutions (including the superannuation and financial advice sectors).

The committee is scheduled to hear from AustralianSuper, IOOF, Suncorp, QSuper, Nulis Nominees (Australia) Ltd, REST, Hostplus, Industry Super Australia, IFM Investors, ASFA and AMP Super. The inquiry into the four major banks was requested by the Treasurer on 1 August 2019 to investigate the progress made by financial institutions in implementing the recommendations of the Banking Royal Commission.

ASIC to appear before Parliamentary committee

The House of Representatives Standing Committee on Economics has announced that ASIC will appear at a public hearing on in Canberra, as part of its Review of ASIC's Annual Report 2018. Committee Chair, Mr Tim Wilson MP, said the committee will question ASIC on its performance and operation and, in particular, how it is implementing the recommendations of the Hayne Royal Commission.

Assessing whether an arrangement is a labour hire service – caution

Background

- Labour hire providers have until 29 October 2019 to apply for a licence with the Labour Hire Authority to continue operating in Victoria or face major penalties.
- From 30 October 2019 businesses must only use licensed providers or providers who have applied for a licence before 30 October 2019 and have not been refused or face major penalties.

For Accountants providing services to their clients:

In the situation and in most cases, where an Accountant provides a staff member to work at the client's premises for the purposes of preparing the client's documentation, and the staff member is not being directed or supervised by the client, the work being performed is not a key function of the client's business and work performed is different to the work performed by the client's own employees, then this is not considered to be labour hire.

However, caution needs to be exercised in the somewhat more unusual instances where the Accountant provides the client with a staff member to work at the client's premises to 'supplement the client's team and the' staff member is 'performing the same work as the client's employees, this would be labour hire'.

For more information, click here.

If you are unsure whether you are a labour hire provider, you should review the Labour Hire Authority website about the types of labour hire providers, in particular, 'who is a labour hire provider', or seek independent legal advice or as an IPA member use 'Professional Assist', for your particular circumstances.

Please read the information on the Labour Hire Authority's website carefully and subscribe to the Authority's e-newsletter.

Revision of Guidance Statements (GS) | Auditing and Assurance Standards Board Survey

The Auditing and Assurance Standards Board (AUASB) has released a short survey (closes **25 October 2019**) to gather feedback on the AUASB's Guidance Statements (GS) Revision Project (GSs requiring updating/withdrawal) to determine the relevance and priority associated with the update of each GS. This survey should only take 10 minutes to complete.

The time is running out for labour hire providers to apply for a licence to keep operating in Victoria.

A business which supplies workers in any occupation to another business in any industry may be a labour hire provider under the law.

- Labour hire providers have until 29 October 2019 to apply for a licence with the Labour Hire Authority to continue operating in Victoria or face major penalties.
- From 30 October 2019 businesses must only use licensed providers or providers who have applied for a licence before 30 October 2019 and have not been refused, or face major penalties.
- The maximum penalties can exceed $500,000 per breach.
- The labour hire licensing scheme was introduced to protect labour hire workers from exploitation and to improve transparency and integrity.
- View more information about what labour hire providers and hosts need to do: https://labourhireauthority.vic.gov.au/.