

## **TAXATION**

### **ATO system issues for individual returns and super access**

ATO has advised that a number of individuals has experienced issues with its online systems while trying to lodge tax returns or apply for early release of super.

### **ATO top tax time myths for 2020**

ATO has published a list of common mistakes and misconceptions taxpayers have around tax time.

### **ATO offers guidance to rental property owners at tax time**

ATO has provided guidance for rental property owners experiencing reduced income including when to include rent as income and record keeping requirements.

### **Allocation of profits within professional firms**

ATO has provided an update on the suspended application of its guidelines on allocation of profits within professional firms and Everett assignments.

### **Alert re fraudulent entitlement to COVID-19 stimulus**

ATO is on the look-out for fraudulent schemes designed to take advantage of the government's COVID-19 stimulus package.

### **Div 7A and COVID-19**

ATO has announced it will allow an extension of the repayment period for borrowers who are unable to make the minimum yearly repayment by the end of the income year.

### **ATO's 2020-21 focus: APESB's new independence guide**

The ATO has highlighted some areas of focus in relation to the Accounting Professional and Ethics Standards Board's updated independence guide.

**Senate Committee update on ATO whistleblower documents**

Senate Economics Legislation Committee has reported to the Chamber about its previous order for the ATO to provide documents re whistleblower disclosure.

**FBT car parking threshold 2020-21**

ATO has updated the FBT car parking threshold at \$9.15 for the FBT year starting 1 April 2020.

**ATO's FBT guide for employers updated**

ATO has updated its FBT guide for employers to reflect the change to the definition of taxi for FBT purposes.

**PAYG withholding schedules for 2020**

Instrument that makes publicly available withholding schedules updated in accordance with the PAYG system has been registered.

**Effective life of depreciating assets from 1 July 2020**

ATO has registered a determination which provides taxpayers in specific industries and for specific assets with effective lives as a basis to calculate the decline in value.

**2018-19 tax return deadline extended for continued childcare support**

Government has announced the extension of deadline for families receiving the Child Care Subsidy to submit their 2018-19 tax return.

**2020 Measures No. 3 Bill receives Assent**

Treasury Laws Amendment (2020 Measures No 3) Bill 2020 has received Royal Assent as Act No 61 of 2020.

## **Registries modernisation Bills receive Assent**

The package of Bills to amend the Corporations Act 2001 to introduce a director identification number has received Royal Assent.

## **GST draft instrument: third party adjustment note**

ATO has issued a draft legislative instrument which outlines the information that a third-party adjustment note must contain.

## **Appeals update: Travelex**

The High Court has granted the Commissioner special leave to appeal against the Full Federal Court decision in *FCT v Travelex Ltd* [2020] FCAFC 10.

## **FINANCIAL SERVICES**

### **CPD release for financial advisers: draft instrument**

FASEA has released a draft legislative instrument to give effect to its announcement to grant advisers an additional three months to meet their CPD requirement.

### **TPB and FPA signs MoU for information exchange**

TPB and Financial Planning Association of Australia has signed a Memorandum of Understanding which will facilitate information exchange.

### **2019 Measures No 3 Bill receive Assent**

Treasury Laws Amendment (2019 Measures No 3) Bill 2020 has received Royal Assent as Act No 64 of 2020.

### **Supervisory levy changes Bills receive Assent**

The package of supervisory levy imposition amendment Bills has received Assent, it will increase the statutory upper limit of the levies APRA can collect.

## **SUPERANNUATION**

### **COVID-19 early release of super**

ATO has reported it has identified examples individuals who have applied for the early release of their super under the COVID-19 condition of release.

### **Data matching program: early release of super and other**

ATO has commenced a data matching program to acquire information regarding early release of super and details of incarcerated individuals.

### **Super contributions flexibility**

Recent amendments to the SIS Regulations will allow people aged 65 and 66 to make voluntary super contributions without meeting the work test.

### **New reporting requirements by AASB for SMSFs**

ATO has issued a reminder that the AASB has released a new amended accounting standard which changes the reporting requirements for certain entities.

### **AUASB Guidance Statement: Auditing SMSFs**

ATO has issued a reminder that AUASB has published a revised guidance statement on auditing SMSFs.

### **Super fund internal dispute resolution: transition deferred**

An instrument has been registered which preserves until 5 October 2021 the existing internal dispute resolution policy for super funds.

### **Market linked pensions and transfer balance accounts**

ATO has provided compliance guidance on the new way of calculating a debit for an individual's pension transfer balance account.

**APRA supervisory levy determination registered**

Determination has been registered which sets the financial institutions supervisory levies that will apply for the 2020-21 financial year.

**REGULATOR NEWS****IGTO investigation into communication of taxpayer rights**

Inspector-General of Taxation and Taxation Ombudsman (IGTO) has launched a new investigation into effective communication of taxpayer rights by the ATO.

**TPB invites comment of proposed guidance for approved courses**

TPB has announced the commencement of consultation on a suite of draft legislative instruments setting out requirements of Board approved courses.

**Court fees increase**

Various Court fees have increased including AAT application fee, and Federal and High Court filing fees.

**The Australian Account Standards Board (AASB) Weekly Update**

The AASB has a weekly update providing a snapshot of developments at the AASB and in international financial reporting. More information [here](#)

## **TAXATION**

### **ATO system issues for individual returns and super access**

The ATO has [advised](#) that a number of individuals has experienced issues with its online systems while trying to lodge tax returns or apply for early release of super.

The ATO said this disruption was the result of a "small component failure", which reduced the capacity for processing these matters. The ATO said it has identified the area of the system that failed and is in the process of replacing this component as quickly as possible.

While ATO technicians work to fix the issue, it has temporarily reduced the number of people who can access the ATO's online services for individuals. This means some users are still able to access the ATO's online services without issue, while others have received a message asking them to try again later. Importantly, not all ATO systems have been impacted and the online services for businesses and agents are currently unaffected, the ATO said. The ATO will provide a further update as soon as the matter has been fully resolved.

### **ATO top tax time myths for 2020**

The ATO has [published](#) a list of common mistakes and misconceptions taxpayers have around tax time. "Our main priority is to help people get the facts straight before they lodge so that it's a smooth, easy and fast process," Assistant Commissioner Karen Foat said. The ATO said last year, nearly 500,000 individual tax returns were amended, with some taxpayers even amending their own returns before they were processed, which actually slows down the processing of their return. The top tax time myths of 2020:

- Bank details don't update themselves;
- It's not okay to double dip;
- Home to work travel is not claimable;
- You can't just claim \$300 or \$299 if you had no expenses;
- Work-related expenses need to be work related; and
- Lodging earlier doesn't always mean getting your refund earlier.

## ATO offers guidance to rental property owners at tax time

The ATO is [aware](#) that residential rental property owners (the owners), due to COVID-19, floods, or bushfires, may be experiencing reduced income from tenants paying less or entering deferred payment plans, or travel restrictions which have affected demand for short-term rental properties. Assistant Commissioner Karen Foat explained that whatever the circumstances, the most important first step is to keep records of all expenses.

Owners are advised to include rent as income at the time it is paid, so they only need to declare the rent received as income. If payments by tenants are deferred until the next financial year owners do not need to include these deferred payments until received. While rental income may be reduced, owners will continue to incur normal expenses on their rental property and will still be able to claim these expenses in their tax return as long as the reduced rent charged is determined at arms' length, having regard to the current market conditions. The ATO reminds owners that any payouts from rental insurance that covers a loss of income are assessable income and must be included in tax returns. For deferred loan repayments to banks, the interest being charged on the loan are still claimable.

For short-term rentals adversely affected due to COVID-19 or natural disasters, including the cancellation of existing bookings, deductions are still available provided the property was still genuinely available for rent. If owners decided to use the property for private purposes, offered the property to family or friends for free, offered the property to others in need or stopped renting the property out they cannot claim deductions in respect of those periods. The ATO has also provided clarification to some examples of common mistakes including claiming deductions re travel and capital works and repairs.

## Allocation of profits within professional firms

In 2017, the ATO suspended the application of its guidelines on allocation of profits within professional firms and Everett assignments, to institute a review after finding the guidelines were being misinterpreted. Consultation has been ongoing since early 2018, with a [view to publishing new guidance](#).

In particular, the ATO had concerns with the following arrangements:

- Lack of meaningful commercial purpose of the arrangements (ie disposal through multiple assignments, creation of new discretionary entitlements or amortisation differences between tax and accounting income);
- Inappropriate use of CGT concessions and disregard of CGT consequences;
- Profit sharing not directly proportionate to equity interest held;
- Creation of artificial debt deductions;
- Assignments to dispose equity interest to SMSF;
- Arrangements "not on all fours with principles of Everett and Galland".

According to the ATO, those taxpayers who entered into arrangements prior to 14 December 2017 can continue to rely on the suspended guidelines for the year ended 30 June 2020 provided they comply with the suspended guidelines; "is commercially driven" and do not exhibit any of the characteristics outlined above. The ATO is also encouraging those contemplating new arrangements or have concerns regarding their current arrangements to make contact.

## **Alert re fraudulent entitlement to COVID-19 stimulus**

The ATO [is on the look-out for fraudulent schemes](#) designed to take advantage of the Government's COVID-19 stimulus package. This includes JobKeeper, early release of superannuation, and boosting cash flow for employers.

The ATO will be using its wide array of data sources (eg STP, income tax returns, information from super funds, etc) to assess and identify inappropriate behaviour. The ATO has also established a confidential tip-off line for the public to raise concerns of any wrongdoing.

"We've received intelligence about a number of dodgy schemes, including the withdrawal of money from superannuation and re-contributing it to get a tax deduction. Not only is this not in the spirit of the measure (which is designed to assist those experiencing hardship), severe penalties can be applied to tax avoidance schemes or those found to be breaking the law. If someone recommends something like this that seems too good to be true, well, it probably is," ATO Deputy Commissioner Will Day said.

Mr Day added that the ATO's tax system works on a self-assessment model and generally accepts information that are provided as true and correct and make



payments. "However, we will be conducting checks later, so if you've received a benefit as part of the COVID-19 stimulus measures and we discover you are ineligible, you can expect to hear from us. If you think this may apply to you, you should contact us or speak to your tax professional," Mr Day said. Penalties for fraud can include financial penalties, prosecution, and imprisonment for the most serious cases.

Mr Day also cautioned the community to protect their identities and be vigilant of scammers.

The following is a summary of the ATO's compliance efforts for each stimulus measure:

- **JobKeeper** – ensuring eligibility criterias are met (business income, eligible employees, etc) and no manipulation of turnover to satisfy decline in turnover test;
- **Early release of superannuation** – identifying dishonest behaviour such as applying when there is no change in salary or employment information, artificially arranging affairs or making false statements to meet the eligibility criteria and withdrawing and re-contributing super for a tax advantage;
- **Boosting cashflow for employers** – identifying schemes designed to create entitlement such as artificially restructuring businesses, artificially changing the character of payments to salary or wages, inflating reported withholding amounts, resurrecting dormant entities or phoenixing and making false statements.

## Div 7A and COVID-19

When there is a complying loan agreement between a private company (and certain interposed entities) and a borrower under s 109N, the borrower must make the minimum yearly repayment (MYR) by the end of the private company's income year. This avoids the borrower being considered to have received an unfranked dividend, generally equal to the amount of any MYR shortfall (referred to as the shortfall).

As a result of the COVID-19 situation, the ATO says it understands that some borrowers are facing circumstances beyond their control. To offer more support, the [ATO has announced](#) that it will allow an extension of the repayment period for those borrowers who are unable to make their MYR by the end of the lender's 2019-20 income year (generally 30 June) under s 109RD.

Borrowers can request the extension by completing a streamlined online application on the ATO website. Once the ATO approves the extension application, the taxpayer must pay the MYR shortfall by 30 June 2021 to avoid Division 7A consequences.

The Commissioner warns that his decision to extend the time for payment of the shortfall does not alter or amend the loan agreement that a taxpayer has with the lender. This includes penalty interest remedies for default under the loan.

### **ATO's 2020-21 focus: APESB's new independence guide**

The ATO has [highlighted](#) some areas of focus in relation to the Accounting Professional & Ethical Standards Board's (APESB) new and updated [Independence Guide – Fifth Edition](#), May 2020 (the Guide), which incorporates changes to the restructured APES 110 Code of Ethics for Professional Accountants (including Independence Standards) (the restructured Code), which became effective on 1 January 2020 and is mandatory for audits and reviews in Australia.

As a result of the restructured Code, an SMSF auditor cannot audit an SMSF where the auditor, their staff or their firm has prepared the financial statements for the SMSF unless it is a routine or mechanical service. The firm must also address any threats created by providing such services that are not at an acceptable level.

When monitoring whether the preparation of accounts by the auditor's firm is routine or mechanical under the new standard, the ATO expects to see appropriate evidence on the auditor's file that the SMSF trustees took responsibility for the financial statements and had sufficient knowledge, skills and experience to do so. Even where the preparation of the financial statements is routine or mechanical, the ATO and the Australian Securities and Investment Commission (ASIC) require the auditor to use safeguards to reduce the self-review threat to an acceptable level.

The ATO has indicated that it will write to auditing firms, during the 2020-21 financial year, where data indicates that the auditor could also be auditing financial statements prepared by the same firm to assist auditors comply with the requirements under the restructured Code.

## Senate Committee update on ATO whistleblower documents

The Senate Economics Legislation Committee has [reported](#) to the Chamber about its previous order for the Commissioner of Taxation to provide the Committee with all documents relating to the whistleblower disclosure by former ATO employee, Mr Richard Boyle. By way of background, Mr Boyle had made a disclosure on 12 October 2017 under the Public Interest Disclosure Act 2013 (PID Act) alleging that the ATO had instructed employees to issue standard garnishee notices to seize funds from taxpayers' bank accounts without notice or consideration of their personal and business circumstances. In doing so, Mr Boyle alleged that the ATO had required employees to engage in conduct that was unethical, unprofessional and against the Australian Public Service Code of Conduct.

The Committee reported that it conducted a half-day hearing on 6 December 2019 in Canberra - see [transcript](#). Based on the evidence received from witnesses, and in particular from the Commonwealth Ombudsman, the Committee said it is "concerned that the standard of the ATO's investigation could appear to the public to be superficial in addressing the serious concerns raised by ATO whistleblowers". However, the Committee said it is of the view that further inquiry into the Order for the Production of Documents (OPD) matter is not required, though it will reconsider its position if further information comes to light. The Committee also noted that its report into the Performance of the IGTO also covers the IGTO's investigation into the ATO's handling and administration of garnishee notices.

## FBT car parking threshold 2020-21

The ATO has [updated](#) the FBT car parking threshold at \$9.15 for the FBT year starting on 1 April 2020 (up from \$8.95 for the 2019-20 FBT year).

## ATO's FBT guide for employers updated

The ATO has updated its publication "Fringe Benefits Tax – a guide for employers" following the Treasury Laws Amendment (2019 Measures No 3) Bill 2020 receiving assent. The ATO has updated [Ch 20](#) which deals with exempt benefits, to reflect the change to the definition of taxi for FBT purposes. This incorporates the change that, from 1 April 2019, travel in ride sourcing vehicles (other than a limousine) is eligible for exemption.

## **PAYG withholding schedules for 2020**

The [Taxation Administration Act Withholding Schedules 2020](#) has been registered. This instrument makes publicly available withholding schedules updated in accordance with the PAYG system.

Withholding schedules specify the formulas and procedures to be used for working out the amount to be withheld by an entity from a withholding payment covered by Subdiv 12-B, 12-C or 12-D of Sch 1 to the TAA. The 15 withholding schedules in the instrument are made for the purposes of collecting income tax, Medicare levy and amounts of liabilities to the Commonwealth under the Higher Education Support Act 2003, the Trade Support Loans Act 2014, the Social Security Act 1991 and the Student Assistance Act 1973. The schedules cover, for example, calculating amounts to be withheld, tax table for actors, tax table for unused leave payments on termination of employment, tax table for commissions, tax table for seniors, tax table for superannuation lump sums, tax table for superannuation income streams.

**Date of effect:** 1 July 2020.

## **Effective life of depreciating assets from 1 July 2020**

The ATO has registered [The Income Tax \(Effective Life of Depreciating Assets\) Amendment Determination \(No 2\) 2020](#). Made under s 40-100(1) of the ITAA 1997, it commences on 1 July 2020 and provides taxpayers in specific industries and for specific assets with effective lives as a basis to calculate the decline in value (depreciation) of a depreciating asset for income tax purposes.

## **2018-19 tax return deadline extended for continued childcare support**

Minister for Education Dan Tehan has [announced](#) the extension of deadline to 31 March 2021 for families receiving the Child Care Subsidy (CCS) to submit their 2018-19 tax return for CCS purposes.

Families are encouraged to lodge their 2018-19 tax return as soon as possible, noting the extension is for CCS purposes only, and delaying lodgment of the return could affect other benefits, such as Family Tax Benefit. Families should check the

ATO website to understand the consequences for non-lodgment of tax returns by the required due date.

Mr Tehan said the new deadline would ensure that families who had not submitted their 2018-19 tax return could continue to access subsidised care from 13 July 2020. "I encourage all families that have not submitted their 2018-19 tax return paperwork to do so as soon as possible. I also remind parents to update their details with Services Australia before 13 July 2020, especially those with reduced incomes, to ensure they receive the correct level of subsidy they are entitled to," he said.

### **2020 Measures No. 3 Bill receives Assent**

The [Treasury Laws Amendment \(2020 Measures No 3\) Bill 2020](#) has received Assent as Act No 61 of 2020. Among other things, it enacts the extension to the instant asset write-off, reduces the GDP adjustment factor to nil for 2020-21 and clarifies the treatment of PSI in terms of cash flow boost payments.

### **Registries modernisation Bills receive Assent**

The [Treasury Laws Amendment \(Registries Modernisation and Other Measures\) Bill 2019](#) received Assent as Act No 69 of 2020. It is one of a package of Bills which amend the Corporations Act 2001 to introduce a director identification number (DIN) requirement. The DIN is intended to assist regulators and external administrators to investigate a director's involvement in what may be repeated unlawful activity including illegal phoenix activity. An associated Bill, the [Commonwealth Registers Bill 2019](#), also received Assent as Act No 65 of 2020.

### **GST draft instrument: third party adjustment note**

The ATO has issued a draft legislative instrument, [Goods and Services Tax: Third Party Adjustment Note Information Requirements Determination 2020](#) which states that for the purposes of paragraph 134-20(1)(d) of the GST Act, a third party adjustment note must contain enough information to enable the following to be clearly ascertained:

- the payer's identity, as specified in a form other than the payer's ABN (note that under paragraph 134-20(1)(c) of the GST Act, the payer must also set out its ABN)

- the payee's identity or the payee's ABN
- a description of the thing that the payee acquires (including the quantity) and to which the payment relates
- the amount of the payment (being a payment of money, an offset of debt, or a credit to an account) that represents a third-party payment under Division 134 of the GST Act
- the amount of the payer's decreasing adjustment under subsection 134-5(2) of the GST Act
- the date the note is issued.

This instrument repeals A New Tax System (Goods and Services Tax) Third Party Adjustment Note Information Requirements Determination (No. 1) 2010 (F2010L01588) registered on 16 June 2010.

**Date of effect:** 1 October 2020

**Comments** due by 27 July 2020.

### **Appeals update: Travelex**

The High Court has [granted](#) the Commissioner special leave to appeal against the Full Federal Court decision in *FCT v Travelex Ltd* [2020] FCAFC 10. The Full Federal Court had dismissed the ATO 's appeal against a 2018 decision concerning the payment of interest on an RBA surplus that arose where the taxpayer had overstated its GST liability.

## **FINANCIAL SERVICES**

### **CPD release for financial advisers: draft instrument**

The Financial Adviser Standards and Ethics Authority (FASEA) has released a [draft legislative instrument](#) proposing to give effect to its [announcement](#) to grant financial advisers an additional three months to meet their 40-hour CPD requirement. This one-off extension by three months recognises the difficulty faced by advisers to complete planned CPD offerings due to COVID-19. Advisers will still be required to complete 40 hours of CPD in 12 months in future CPD years and cannot double count hours across the years. In the meantime, FASEA encourages advisers to

utilise effective solutions being offered by licensee CPD programs that contain online learning as part of a led or conducted CPD program

The draft instrument proposes to amend the Corporations (Continuing Professional Development Standard) Determination 2018 by allowing relevant providers whose CPD year includes 18 March 2020 to complete CPD activities in the 3 months following the end of the CPD year towards the CPD requirements for that year. Relevant providers will not be able count those CPD activities towards any other CPD year. The 18 March 2020 date aligns to the date of commencement of the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020.

**Submissions** are due by 1 July 2020.

### **TPB and FPA signs MoU for information exchange**

The Tax Practitioners Board (TPB) and the Financial Planning Association of Australia (FPA) has [signed](#) a Memorandum of Understanding (MoU) which will facilitate information exchange about matters of mutual interest including compliance with the Tax Agent Services Act 2009 and the Code of Professional Conduct.

"This is our first finalised MoU with a recognised professional association, but we expect more to come as we continue to work closely with other associations to develop similar agreements," TPB Chair, Mr Ian Klug AM said.

The MoU allows for the exchange of information between the TPB and the FPA on issues including:

- misconduct by registered tax practitioners;
- intelligence, operational matters and "de-identified data trends";
- continuing professional education opportunities.



## 2019 Measures No 3 Bill receive Assent

The [Treasury Laws Amendment \(2019 Measures No 3\) Bill 2020](#) received Assent as Act No 64 of 2020. It contains measures that:

- amend the ITAA 1936 to ensure the tax concessions available to minors in relation to income from a testamentary trust only apply in respect of income generated from assets of the deceased estate that are transferred to the testamentary trust;
- defer the start date for the new training requirements for financial advisers;
- amend the FBT definition of a "taxi" so that the FBT exemption for taxi travel extends to ride-sourcing services (such as Uber); and
- make minor and technical amendments across a range of Treasury laws including taxation, superannuation, market-linked pensions and corporations in Sch 3 to the Bill.

## Supervisory levy changes Bills receive Assent

The package of supervisory levy imposition amendment Bills has received Royal Assent. The Bills increase to \$10m the statutory upper limit of the levies APRA can collect from prudentially regulated entities (including super funds). The package of Bills includes:

- [Australian Prudential Regulation Authority Amendment \(APRA Industry Funding\) Bill 2020](#) (Act No 54 of 2020);
- [Authorised Deposit-taking Institutions Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 55 of 2020);
- [Authorised Non-operating Holding Companies Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 56 of 2020);
- [General Insurance Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 57 of 2020);
- [Life Insurance Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 58 of 2020);
- [Retirement Savings Account Providers Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 59 of 2020);
- [Superannuation Supervisory Levy Imposition Amendment Bill 2020](#) (Act No 60 of 2020).



## **SUPERANNUATION**

### **COVID-19 early release of super**

The ATO has [reported](#) that it has identified examples of individuals who have applied for the early release of their superannuation under the COVID-19 condition of release without having satisfied the eligibility conditions. Individuals impacted by COVID-19 self-assess their eligibility to apply via MyGov to release up to \$10,000 of their super for 2019-20. A second application up to \$10,000 can be made in the 2020-21 year until 24 September 2020.

In some cases, the ATO said it has stopped applications and prevented super money from being released. In other cases, the ATO has reviewed applications after they have been processed and found that some claims were made incorrectly. The ATO said it uses a variety of data sources to check claims, including the Single Touch Payroll (STP) system to check whether people are employed and how much they are being paid. Behaviours that attract the ATO's attention include:

- applying when there is no change to the individual's regular salary and wage, or employment information;
- artificially arranging a person's affairs to meet the eligibility criteria;
- making false statements or fraudulent attempts to meet the eligibility criteria; and
- withdrawing and recontributing super for a tax advantage.

The ATO said it is also investigating some cases and may consider it appropriate to apply the Pt IVA if a taxpayer (or a representative) has entered into a scheme mainly for the purpose of obtaining a tax benefit in relation to the COVID-19 early release of super arrangements.

### **Data matching program: early release of super and other**

The ATO has registered gazette [Notice of Data Matching Program - COVID-19 Economic Response Support 2020](#) to acquire:

- confirmation of government Payment made to applicants of temporary early access to superannuation for the period of 19 April 2020 to 24 September 2020 from Services Australia; and

- details of incarcerated individuals for the period of 1 March 2020 to 27 September 2020 from state and territory correctional facility regulators.

The data will be acquired and matched to verify eligibility criteria for: (i) JobKeeper payments; (ii) temporary early access to superannuation; and (iii) temporary cash flow boost.

It is the intent of the ATO program to:

- ensure COVID-19 economic response provides timely support to affected workers business and the broader community;
- undertake verification of applications and identify compliance issues;
- implement treatment strategies to improve voluntary compliance, which may include educational and compliance activities as appropriate;
- identify and educate those individuals and businesses who may be failing to meet their registration and/or lodgment obligations and assist them to comply;
- help ensure that individuals and businesses are fulfilling their tax and superannuation reporting obligations.

## **Super contributions flexibility**

The Assistant Minister for Superannuation, Senator Jane Hume, has [welcomed](#) the recent amendments to the SIS Regulations that will allow more people to make voluntary superannuation contributions from 1 July 2020.

The [Superannuation Legislation Amendment \(2020 Measures No 1\) Regulations 2020](#), allows people aged 65 and 66 (ie under age 67) to make voluntary super contributions (both concessional and non-concessional) without meeting the work test. The age limit for making spouse contributions has also been increased from 69 to 74 from 1 July 2020. The amendments to reg 7.04 of the SIS Regs bring the contribution rules for those aged 65 and 66 (ie under age 67) into line with those for individuals under 65 years, providing greater flexibility to make contributions as they approach retirement.

These changes to the super contributions rules were previously announced in the 2019-20 Federal Budget. Another change in that Budget package will allow people aged 65 and 66 (ie under age 67) to make up to three years of non-concessional contributions (ie \$300,000) under the bring-forward rule from 1 July 2020. Senator

Hume said this additional measure is still before the House of Reps in the [Treasury Laws Amendment \(More Flexibility Superannuation\) Bill2020](#).

## **New reporting requirements by AASB for SMSFs**

The ATO has issued a [reminder](#) that the Australian Accounting Standards Board (AASB) has released a new amended accounting standard, [AASB 2020-2](#), which will come into effect from 1 July 2021. The accounting standard changes the reporting requirements of certain for-profit private sector entities which will no longer be able to self-assess financial reporting requirements and prepare special purpose financial statements (SPFS) if their trust deeds were created or amended on or after 1 July 2021. These entities will now need to prepare, as a minimum, Tier 2 general purpose financial statements (GPFS) that comply with all recognition and measurement requirements in Australian Accounting Standards (AAS) and minimum simplified disclosures.

This change means new SMSFs that are set up after 1 July 2021 and wish to prepare SPFS will need to ensure they don't have a clause in their trust deeds that require their financial statements be prepared in accordance with the AAS. Similarly, existing SMFSs that intend to change their trust deed after 1 July 2021 should remove such a clause if they wish to continue preparing SPFS.

Most SMSF trust deeds refer to the financial statements being prepared in accordance with the super laws and do not refer to the AAS so this should not become an issue for the majority of SMSFs.

## **AUASB Guidance Statement: Auditing SMSFs**

The ATO has issued a [reminder](#) that on 22 June 2020 the Auditing and Assurance Standards Board (AUASB) published a revised AUASB [Guidance Statement GS 009: Auditing Self-Managed Superannuation Funds](#). The revised Guidance Statement identifies, clarifies and summarises the existing responsibilities which approved self-managed superannuation fund (SMSF) auditors have with respect to conducting SMSF audit engagements. It also provides guidance to the auditor on matters to consider when planning, conducting and reporting on the financial and compliance engagement of an SMSF audit.

Comments and feedback on the revised Guidance Statement can be sent to AUASB directly via email at [enquires@auasb.gov.au](mailto:enquires@auasb.gov.au).

## **Super fund internal dispute resolution: transition deferred**

[ASIC Corporations, Superannuation and Credit \(Amendment\) Instrument 2020/99](#), has been registered, which preserves until 5 October 2021 the existing internal dispute resolution (IDR) policy for superannuation funds for the purposes of s 101(1)(b) of the SIS Act.

Section 101(1)(b) of the SIS Act provides that trustees of regulated superannuation funds (other than SMSFs) are subject to the same IDR obligations as financial services licensees under s 912A(2)(a)(i) of the Corporations Act 2001. However, the original transitional Instrument - ASIC Corporations and Credit (Internal Dispute Resolution - Transitional) Instrument 2019/965 - preserved the existing IDR policy for super funds until 30 June 2020, pending the finalisation of ASIC's new IDR standards, which have been delayed due to COVID-19. ASIC is now expected to release its new IDR standards in July 2020 for application to complaints received by financial firms on or after 5 October 2021.

Accordingly, the amending Instrument 2020/99 provides for the transitional Instrument to apply to complaints received before 5 October 2021 so as to preserve the status quo until the commencement of ASIC's new IDR policy.

## **Market linked pensions and transfer balance accounts**

The ATO has provided [compliance guidance](#) on the new way of calculating a debit for an individual's pension transfer balance account when a member commutes certain market linked pensions.

This follows the [Treasury Laws Amendment \(2019 Measures No 3\) Bill 2019](#) being passed by the Senate. The Bill amends s 294-145 of the ITAA 1997 to correct an error in the way that market-linked income streams (MLIS) are valued under the \$1.6m pension transfer balance cap when they are commuted or rolled over, resulting in a nil debit in the individual's transfer balance account. As a result of these changes, the ATO is reviewing its compliance approach where it had previously advised super funds that it would not, at that time, take compliance action if a fund did not report the required transfer balance account events of the commutation and re-start a MLIS, or reported a commutation amount other than nil to the ATO.

The ATO said super funds will need to review the information already reported to the ATO and consider whether they need to amend any reporting in line with the legislation. The ATO said it intends to provide guidance to trustees and agents in August 2020 regarding the time frame in which it expects any review of the fund's reporting to be completed for these transfer balance account events. Accordingly, the ATO will not take any compliance action against funds who do not review their reporting before this time.

### **APRA supervisory levy determination registered**

The Treasury has registered the [Australian Prudential Regulation Authority Supervisory Levies Determination 2020](#) which sets the financial institutions supervisory levies that will apply for 2020-21 financial year. Under the superannuation supervisory levy, the restricted component of the 2020-21 levy will be calculated at 0.00300% of assets held by the entity, subject to a minimum of \$5,000 and a maximum of \$600,000 for superannuation funds other than small APRA funds (SAFs). The unrestricted component of the 2020-21 levy will be calculated at 0.003154% of assets held by the entity. SAFs will be levied a flat amount of \$590 per fund.

**Date of effect:** 1 July 2020.

## **REGULATOR NEWS**

### **IGTO investigation into communication of taxpayer rights**

The Inspector-General of Taxation and Taxation Ombudsman (IGTO), Ms Karen Payne, has [announced](#) the launch of a new investigation into effective communication of taxpayer rights to review, complain and appeal decisions made and actions taken by the ATO. The purpose of the investigation is to understand and confirm how effectively the ATO communicates appropriate information to taxpayers and their representatives on these taxpayer rights.

The IGTO says that it has observed through the taxation complaints service that information on rights of appeal and opportunities to raise complaints varies across different types of ATO-issued correspondence. As part of the investigation process,

the IGTO will be reviewing written communications of ATO decisions made – for clear communication of the taxpayers' rights to review, complain and appeal these decisions.

The IGTO also said that the investigation will initially focus on ATO communications which concern debt decisions; individuals and small business taxpayers that likely do not have significant financial resources to appeal taxation decisions in the Courts.

See also [Terms of Reference](#).

**Submissions** by 30 September 2020.

### **TPB invites comment of proposed guidance for approved courses**

The TPB has [announced](#) the commencement of consultation on a suite of draft legislative instruments setting out the requirements of the following Board approved courses:

- basic accountancy principles for tax agents;
- commercial law for tax agents;
- Australian taxation law for tax agents;
- basic GST/BAS taxation principles.

The requirements of the draft legislative instruments are taken from previously published proposed guidelines and information sheets. Once converted into legislative instruments, the TPB expects greater clarity and certainty for tax practitioners, applicants for tax practitioner registration and education providers. The draft legislative instruments and explanatory statements are available on the [TPB website](#).

The IPA will be making a submission on this matter and welcomes member comments via email to [ipagroupfeedback@publicaccountants.org.au](mailto:ipagroupfeedback@publicaccountants.org.au).

**Submissions** are due by 28 July 2020.

## Court fees increase

The court fees have changed from 1 July 2020.

### High Court – [link to fee update](#):

- High Court filing fee (special leave application) – \$15,570 (publicly listed companies), \$10,370 (other corporations), \$3,440 (others), \$1,145 (financial hardship fee);
- High Court hearing fee (first day) – \$ 21,125 (publicly listed companies), \$14,075 (other corporations), \$5,780 (others), \$1,925 (financial hardship fee) (no hearing fee for a special leave application);
- High Court daily hearing fee (subsequent days) – \$7,030 (publicly listed companies), \$4,690 (other corporations), \$1,920 (others), \$640 (financial hardship fee).

### Federal Court – [link to fee update](#):

- Federal Court filing fee – \$4,190 (corporations), \$1,440 (others);
- Federal Court appeal (against AAT decision) – \$10,455 (corporations), \$4,840 (others);
- Federal Court setting down fee – \$7,000 (corporations), \$2,875 (others);
- Federal Court daily hearing fee (2nd, 3rd and 4th days) – \$2,795 (corporations), \$1,140 (others) (higher fees for the 5th and subsequent days) (not applicable for appeals).

### AAT – [link to fee update](#):

- Application fee - \$952.

## The Australian Account Standards Board (AASB) Weekly Update

The AASB has a weekly update providing a snapshot of developments at the AASB and in international financial reporting. More information [here](#)