

TAXATION

Treasury miscellaneous tax and super amendments: draft legislation

Treasury has released draft legislation and regulations posing minor and technical amendments to certain tax, super and corporations laws.

PAYG withholding schedules for 2020 updated

The withholding schedules have been updated in response to the tax cuts Bill being passed in Parliament.

New PAYG withholding rates must be implemented by 16 November

ATO says that employers must make sure that they are withholding the correct amount from salary and wages under the new rates no later than 16 November.

New JobKeeper rules: temporary cessation of trading

ATO has registered new JobKeeper rules which add an alternative decline in turnover test which applies to entities that temporarily ceased trading for a period.

New corporate residency test: Board releases report

Board of Taxation has released its review of corporate tax residency to coincide with the government's Budget announcement on technical amendments for corporate residency.

Budget personal tax cuts and other measures now law

The Bill to implement several tax announcements including personal tax cuts from the 2020 Budget has received Royal Assent.

JobMaker hiring credit Bill passes House of Reps

The Bill to allow the Treasurer to make rules intended to improve the prospects of individuals getting employment has passed House of Reps without amendment.

Large corporate tax gap 3.7% for 2017-18

The ATO has updated its estimate of the large corporate groups income tax gap for 2017-18 at a net gap of 3.7% or \$2bn.

DGRs required to register with ANCN: draft Bill

Treasury has released draft legislation proposing to require charities seeking endorsement as a deductible gift recipient to be registered with the ACNC.

TPB annual report 2019-20 released

TPB has released its annual report for 2019-20 highlighting over 2,400 investigations which resulted in the termination of the registrations of 174 tax practitioners.

Virtual meetings and electronic documents: draft legislation

Government has issued draft legislation proposing to make permanent changes in relation to virtual meetings and electronic document execution.

ATO releases GST governance and testing guide

ATO has issued its GST governance data testing and transaction testing guide to explain the methodology applied in relation to existence, design and operation of GST controls.

Sales of vacant subdivided land subject to GST

The Tribunal has held that a taxpayer was liable to GST on the sale of two lots of vacant land.

JobKeeper 2.0 Deadline 31 October 2020

New employers enrolling in JobKeeper 2.0 will need to enrol and submit their decline in turnover figures by **31 October 2020**.

FINANCIAL SERVICES**Professionalisation of financial services industry: Minister**

The Assistant Minister for Superannuation outlined the government's commitment to professionalisation of the financial services industry at a recent conference.

FASEA draft Code of Ethics guide

The draft Financial Planners and Advisers Code of Ethics 2019 guide has been released by FASEA.

Financial adviser featured in Royal Commission sentenced

ASIC has reported that a Sydney-based financial adviser has been sentenced in the NSW Local Court for a dishonesty offence in relation to his conduct.

SUPERANNUATION**ATO concession: SMSF asset valuations**

ATO has advised that it will not apply a penalty for SMSF trustees that have difficulty in obtaining evidence to support market valuations of assets due to COVID-19.

Budget super reforms aligned with APRA's ongoing work

At a recent forum, APRA Deputy Chair outlined its agenda and how it fits in with reforms announced in the Federal Budget.

Super death benefit rollovers: ATO reporting clarification

ATO has clarified the reporting requirements for super death benefit rollovers following retrospective amendments made in June 2020.

SMSF administrative penalties: ATO guidance

ATO has issued Practice Statement PS LA 2020/3 which provides guidance on when entities are liable for administrative penalties.

REGULATOR NEWS

Tax Practitioners Board appointments announced

Government has announced the appointment of three part-time members of the Tax Practitioners Board for a three-year period.

APRA's annual report flags key performance measures

APRA has released its annual report setting out its key performance measures for the 2019-20 financial year.

TAXATION

Treasury miscellaneous tax and super amendments: draft legislation

Treasury has released [exposure draft legislation and regulations](#) proposing minor and technical amendments to certain tax, superannuation and corporations laws. The formal purpose of the amendments is "to ensure the law operates as intended by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes".

Comments are due by 17 November 2020.

The changes include the following:

- **general income tax measures:** (i) s 116-30 of the ITAA 1997 will be amended to ensure that the market value substitution rule does not prevent the intended operation of the non-arm's length income rules in Subdiv 295-H; (ii) s 40-15 of ITAA 1997 amended to ensure that fodder storage assets can be deducted immediately (item 1.5); (iii) s 230-365 of the ITAA 1997 is to be amended to align its language with that in the updated accounting standard for hedge effectiveness (AASB 9); and s 820-935(3) of the ITAA 1997 is to be amended to add the United Kingdom to the list of foreign jurisdictions within the provision (as a result of the UK no longer being part of the EU);
- **review of decisions:** the decisions that a dissatisfied taxpayer can seek review of under Pt IVC (under s 14ZL of the TAA) will be broadened to include legislative instruments;
- **Tax Agent Services Act 2009:** (i) the eligibility criterion for registration is to be amended to clarify that, on an application for the renewal of an existing registration, the individual, partnership or company must already maintain such professional indemnity insurance at the time of applying for the renewal in order to be eligible for registration; and (ii) the Tax Practitioner's Board will be allowed not to terminate a registration on a surrender notice (allowing the Board time to commence an investigation – should one be warranted – before being required to terminate a registration).
- **GST:** the proposed amendment ensures that the administrative penalty in s 284-75(4)(b)(iii) of Sch 1 to the TAA provision correctly applies in relation to false or misleading statements made "by" the recipient of an offshore supply of low value goods (rather than "to", as currently worded).

Superannuation

- **Non-arm's length capital gains for pension assets:** s 118-320 of the ITAA 1997 will be amended to ensure that the non-arm's length income rules in s 295-550 operate as intended in relation to segregated current pension assets to discourage shifting amounts into super through non-arm's length transactions. The proposed amendment provides that non-arm's length capital gains will not be disregarded. This means they will remain statutory income and the non-arm's length income rules can apply to tax such transfers at 45%. **Date of effect:** Applicable to income years starting on or after assent to the Bill.
- **Super Guarantee:** the exclusion for amounts under \$450 will be extended to ensure that any remaining amount that is less than \$450 in a calendar month is also considered excluded salary or wages. An amendment will also clarify that the ordinary time earnings (OTE) base cannot be reduced by an amount of excluded salary or wages that is not otherwise included in the base.
- **COVID-19 early release for NZ residents:** the SIS Regs will be amended to ensure that permanent residents of New Zealand are eligible for early release of their super under the COVID-19 condition of release that applies for Australian citizens, permanent residents of Australia and NZ citizens. That is, permanent residents of New Zealand can also apply to release up to two payments of \$10,000 - one for the 2019-20 year and another for 2020-21 (until 31 December 2020). **Date of effect:** retrospectively from 25 March 2020 (consistent with the ATO's existing admin policy).
- **SMSF accounts and statements:** SMSFs will be required to prepare their accounts and statements at least 45 days before the due date to lodge the fund's return for that year of income. This is the same day by which an approved SMSF auditor must be appointed. **Date of effect:** applicable to accounts and statements prepared in respect of any year of income that ends after the commencement of the amendment (including that year).
- **Tax offset for no-TFN contributions:** a super fund that is a successor fund will be able to claim a tax offset for no-TFN tax previously paid by the original fund in any of the previous three income years. **Date of effect:** 2020-21 income year.
- **Other:** MySuper charging rules; insurance elections for successor fund transfers; inactive low balance accounts and insurance elections; unclaimed money payments; SMSF exclusion from common reporting standard; family law and super complaints; Registrar able to review certain decisions; and no fund deduction for temporary pension payments.

PAYG withholding schedules for 2020 updated

The [Taxation Administration Act Withholding Schedules No 2 2020](#) has been registered. The withholding schedules have been updated in response to the changes to tax scales that were contained in Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Bill 2020, which passed Parliament on 9 October 2020.

The instrument repeals and replaces the former Taxation Administration Act Withholding Schedules 2020.

Date of effect: 13 October 2020.

New PAYG withholding rates must be implemented by 16 November

The ATO has issued [updated tax withholding schedules](#) to reflect the 2020-21 income year personal tax cuts, which have been passed by Parliament.

The ATO acknowledges that, as the changes to withholding have been made part-way through the income year, employers were unable to immediately implement them into their payroll. However, it [says](#) that employers must make sure they are withholding the correct amount from salary or wages paid to employees for any pay runs processed in their system from no later than 16 November onwards.

The ATO notes that employees and other payees will receive their entitlement to the reduced tax payable for the entire 2020-21 income year when they lodge their income tax return for that period, ie on the basis of their full year taxable income.

New JobKeeper rules: temporary cessation of trading

The ATO has registered the [Coronavirus Economic Response Package \(Payments and Benefits\) Alternative Decline in Turnover Test Amendment Rules 2020](#), which add an alternative decline in turnover test which applies to entities that temporarily ceased trading for some or all of the relevant comparative period.

There are four requirements that must be satisfied before an entity can use the temporary cessation of business alternative tests:

- the entity's business had temporarily ceased trading due to an event or circumstance outside the ordinary course of the entity's business;
- trading temporarily ceased for a week or more;
- some or all of the relevant comparison period occurred during the time in which the entity's business had temporarily ceased trading; and
- the entity's business resumed trading before 28 September 2020.

If an entity satisfies these requirements, it may apply either of the following tests:

- first alternative test: compare its current GST turnover (or projected GST turnover) for the applicable turnover test period with the current GST turnover for the same period in the year immediately before the business temporarily ceased trading. For example, this could involve going back to 2018 instead;
- second alternative test: compare its current GST turnover (or projected GST turnover) for the applicable turnover test period with the current GST turnover of the three whole months immediately before the month that the business temporarily ceased trading (or the whole month where the relevant comparison period is a month rather than a quarter). So, assuming the cessation was in September 2019, the entity could look at turnover in June, July and August 2019.

The entity can use either test.

Special provision is made for entities who qualified for the ATO's Bushfires 2019-20 lodgment and payment deferrals, or who received Drought Help concessions.

New corporate residency test: Board releases report

The Board of Taxation has [released](#) its report Review of Corporate Tax Residency. The Government announced in the Budget that it will make technical amendments to the clarify the corporate residency test which are to be "consistent" with the report. The amendments will provide that a company that is incorporated offshore will be treated as an Australian tax resident if it has a "significant economic connection to Australia".

This change is intended to ensure that the treatment of foreign incorporated companies will reflect the corporate residency position prior to the 2016 High Court decision in *Bywater Investments Ltd & Ors v FCT* [2016] HCA 45.

It will have effect from the first income year after the date of assent of the enabling legislation, but taxpayers will have the option of applying the new law from 15 March 2017 (the date on which the ATO withdrew its ruling TR 2004/15).

Budget personal tax cuts and other measures now law

The [Treasury Laws Amendment \(A Tax Plan for the COVID-19 Economic Recovery\) Bill 2020](#) has received Royal Assent as Act No 92 of 2020. The Bill implements several tax announcements from the 2020 Federal Budget.

The Bill brings forward to 1 July 2020 the personal tax cuts (Stage two). From 1 July 2020, the top threshold of the 19% personal income tax bracket has been increased from \$37,000 to \$45,000. The top threshold of the 32.5% tax bracket is increased from \$90,000 to \$120,000. The Bill also brings forward to 2020-21 the increase in the low-income tax offset (up to \$700). The low and middle income tax offset (up to \$1,080) are retained for 2020-21.

The Bill also expands a range of tax concessions currently available to small businesses (turnover under \$10m) to be made available to medium sized businesses (\$10m to \$50m). Businesses with turnover less than \$5bn are able to deduct the full cost of eligible depreciating assets that are installed ready for use between 6 October 2020 and 30 June 2022. The Bill also reforms the R&D Tax Incentive.

JobMaker hiring credit Bill passes House of Reps

The [Economic Recovery Package \(JobMaker Hiring Credit\) Amendment Bill 2020](#) has passed by the House of Reps without amendment. The Bill proposes to allow the Treasurer to make rules for a kind of COVID-19 economic response payment that is primarily intended to improve the prospects of individuals getting employment or increase workforce participation.

The legislation facilitates the JobMaker Hiring Credit scheme that was announced by the Government as part of the 2020-21 Budget, which will operate until 6 October 2022. The nuts and bolts of the scheme will be implemented through regulations.

Large corporate tax gap 3.7% for 2017-18

The ATO has [updated](#) its estimate of the large corporate groups income tax gap for 2017-18 at a net gap of 3.7% or \$2 billion. In other words, this means that large corporate groups paid over 96% of the theoretical total amount of income tax payable by them in 2017-18.

A large corporate group is defined as a corporate group with gross income of over \$250 million in a given financial year. In 2017-18, large corporate groups:

- reported \$1.9 trillion in gross income (up from \$1.8 trillion in prior year);
- generated \$192 billion in taxable income (up from \$156 billion);
- paid around \$53 billion in income tax (up from \$47 billion).

The ATO says it uses a "model-based bottom-up" approach to derive the large corporate groups income tax gap. The model uses ATO compliance and assurance data, and assumptions informed by expert views. The ATO also noted that estimating the tax gap for large corporate groups is difficult and involves inherent uncertainty due to: (i) differences arising from alternative views on the appropriate interpretation of the tax law; and (ii) non-detection estimates (the ATO uses tax assured data to improve estimates of non-detection where possible).

DGRs required to register with ANCN: draft Bill

Treasury has released [exposure draft legislation](#) proposing to require a charity seeking endorsement as a deductible gift recipient (DGR), other than an ancillary fund, to be registered with the Australian Charities and Not-for-profits Commission (ACNC) or operated by a registered charity. The requirement already applies to 41 of the 52 general DGR categories. The proposed reform will extend the requirement to the remaining 11 categories.

Date of effect: three months after the day on which the Bill receives Royal Assent.

As a transitional rule, certain existing non-charity DGR funds will not be subject to the amendments until 12 months following the "transitional application date". This will apply where gifts to a fund, authority or institution were deductible under Div 30 before the application date, and will not be deductible from the application date because of the proposed amendments.

The transitional rule will also apply where a fund, authority or institution, or an entity that operates it, has made an application for endorsement as a DGR under s 426-25 of Sch 1 to the TAA prior to the application date, and the Commissioner has not made a decision on that application. A time-limited exemption is also proposed to allow the ATO to grant an additional three-year extension beyond the transition period in certain circumstances.

Submissions are due by 4 December 2020.

TPB annual report 2019-20 released

The TPB has released its [Annual Report for 2019-20](#), highlighting over 2,400 investigations which resulted in the termination of the registrations of 174 tax practitioners for serious breaches of the Code of Professional Conduct. Other notable highlights:

- the total registered tax practitioner population was 78,181, composed of 43,253 tax agents, 16,160 BAS agents and 18,768 tax (financial) advisers (as at 30 June 2020). The numbers are fairly consistent with the prior year;
- a total of 965 sanctions were imposed on practitioners in 2019-20, up from 733 sanctions in the prior year (a 32% increase);
- 70% of individuals and 95% of businesses engage a practitioner to help them with their taxes;
- in surveys conducted by the TPB, 88% of consumers have reported a high level of trust in their practitioners and 66% have rated their practitioner experience as "excellent".

Virtual meetings and electronic documents: draft legislation

The Government has issued [exposure draft legislation](#) proposing to make permanent changes to the Corporations Act 2001 in relation to virtual meetings and electronic document execution. The reforms make permanent the temporary relief, which allows companies to hold meetings virtually, send meeting-related materials electronically and validly execute documents electronically. The proposed reforms also include additional enhancements to ensure corporate accountability and transparency.

Submissions are due by 30 October 2020.

ATO releases GST governance and testing guide

As part of the ATO's undertaking of "GST assurance (justified trust) reviews" in the large top 100 and top 1000 markets, the ATO has issued its [GST Governance, Data Testing and Transaction Testing Guide](#) to explain how its methodology is applied with regard to reviewing the existence, design and operation of GST controls.

The ATO says the guide provides practical guidance on how to conduct a self-review of a taxpayer's control framework for GST, by describing the requirements for each level of the ATO's staged rating system. In particular, it outlines what the ATO looks for when reviewing the following three fundamental GST controls:

- periodic internal controls testing for GST;
- data controls in place for GST purposes; and
- documented GST control frameworks.

The guide also provides detailed guidance on how to undertake data and transaction testing, to ensure that business systems are creating, capturing and correctly reporting GST. Data and transaction testing may also help taxpayers identify areas where their tax control framework may not be designed or operating effectively for GST purposes.

Sales of vacant subdivided land subject to GST

The Small Business Claims Tribunal has held that a company (the "taxpayer") was liable to GST on the sale of two lots of vacant land: [San Remo Pty Ltd v FCT \[2020\] AAT 4023](#) (AAT, Olding SM, 9 October 2020).

A large parcel of land (the "parent lot") had been acquired by the taxpayer in 1962. The taxpayer undertook multiple subdivisions of the parent lot, albeit separated by lengthy periods of apparent inactivity (which was not explained). The taxpayer had previously sold 12 of the subdivided lots for a profit.

The taxpayer held various rental properties and operated a sheep grazing business, and was registered for GST. The parent lot was not contiguous with the grazing land nor used for grazing or rental purposes. In 2018, the taxpayer sold two lots on which the ATO had included GST (ie via amended assessments).

The taxpayer argued that the lots were sold to facilitate the winding up of deceased estates and to simplify its affairs. There was no business plan, no employees at that time and no claims for income tax and input tax credits associated with the land's ownership had ever been made. It contended that the sales were not made in the course or furtherance of an enterprise that it carried on.

The SBCT concluded that the taxpayer had not satisfied the burden of proof. While its suggestion of the relatively small scale and long periods between subdivisions was not "without force", the taxpayer did carry out a series of activities (ie subdivisions and sales) which culminated progressively in the sale of 12 lots. The taxpayer had not discharged the burden of proving those activities were not "an adventure or concern in the nature of trade".

JobKeeper 2.0 Deadline 31 October 2020

New employers enrolling in JobKeeper 2.0 will need to enrol and submit their decline in turnover figures by **31 October 2020**. The deadline to meet the wage condition for fortnights 14 (28/9-11/10) and 15 (12/10-25/10) is also **31 October 2020**. Existing employers in JobKeeper 2.0 have from **1 to 14 November 2020** to submit their monthly business declaration.

FINANCIAL SERVICES

Professionalisation of financial services industry: Minister

Speaking at the Association of Financial Advisers Virtual Conference, the [Assistant Minister for Superannuation, Senator Jane Hume, said](#) the Government remains committed to the professionalisation of financial advice industry. Of the 22,000 advisers on the Financial Adviser Register, Ms Hume said 10,000 have already passed the FASEA exam. By 2026, all financial advisers will have completed an approved exam, hold a bachelor's degree (or equivalent) and undertake mandatory continuing professional development.

The next step involves the Government establishing the single disciplinary body for financial advisers, as recommended by the Banking Royal Commission. Following consultation, the Government is now working through the detail and intends to

introduce legislation by mid-2021. The Government is also looking to establish a compensation scheme of last resort, with legislation to be introduced by mid-2021.

The Government also acknowledged that the regulators will be taking a more forward-leaning approach to the rollout of technology that helps advisers do their job. If consumers have to pay many thousands of dollars for a Statement of Advice (SoA), then many people who need that advice most will not be able to access it, Ms Hume said.

FASEA draft Code of Ethics guide

The [draft Financial Planners & Advisers Code of Ethics 2019 guide](#), has been released by the Financial Adviser Standards and Ethics Authority (FASEA), has highlighted the role of specialist SMSF advice.

FASEA Chief Executive, Stephen Glenfield, said the draft guide provides an explanation of the intent and practical application of the Code's five values and 12 standards. It highlights the requirement for advisers to exercise their professional judgment in the best interests of their client guided by the values and standards of the Code.

In relation to providing SMSF advice, the draft guide sets out the following Q&A:

- **Question:** As an Adviser, I have basic knowledge in SMSF that I learnt when undertaking an approved Graduate Diploma. My client has requested specialist SMSF advice involving a number of complex issues I have not previously encountered. Should I provide advice to the client?
- **Answer:** In this circumstance, it would be appropriate for the adviser to seek the assistance of another adviser with specialist SMSF skills before giving advice or to refer the client to another adviser with the necessary competency. If the adviser wished to give this type of advice in the future they should undertake additional specialist SMSF study and training before doing so.

Submissions are due by 2 November 2020 - email: consultation@fasea.gov.au.

Financial adviser featured in Royal Commission sentenced

ASIC has [reported](#) that a Sydney-based financial adviser has been sentenced in the NSW Local Court for a dishonesty offence in relation to his conduct that was revealed in a case study by the Banking Royal Commission. ASIC said the former adviser will enter into a recognisance bond to be of good behaviour for two years. Additionally, he was fined a total of \$10,000.

The sentence follows the former adviser pleading guilty to one "rolled up" charge of dishonest conduct (s 1041G of the Corporations Act 2001) and two counts of making a disclosure document available to a person knowing it to be defective (s 952D(2)(a)(ii) of the Corporations Act). ASIC alleged that the former adviser, who was the CEO and director of his own firm, engaged in the dishonest conduct when he made false representations that he had a Master of Commerce when he did not hold that qualification.

SUPERANNUATION

ATO concession: SMSF asset valuations

The ATO has [advised](#) that it will not apply a penalty for SMSF trustees that have difficulty in obtaining evidence to support market valuations of assets due to COVID-19.

SMSF trustees are required to provide objective and supportable evidence to their auditor each year to establish that assets of the fund are valued at market value in compliance with reg 8.02B of the SIS Regs. To satisfy this requirement, the valuation evidence should be provided in accordance with the ATO's [Valuation guidelines for self-managed super funds](#).

During the 2020 and 2021 financial years, the ATO says it will not apply a penalty if it is satisfied that the difficulty in obtaining valuation evidence is due to COVID-19. Instead, the ATO will send the SMSF trustee a letter advising them to ensure they comply with the ATO's valuation guidelines and have supporting valuation evidence by the time of their next audit if possible. The ATO warns that repeated contraventions of the valuation evidence requirements could lead to penalties.

If a trustee has difficulty obtaining valuation evidence due to COVID-19, the ATO says the SMSF auditor should still consider modifying Part B of the audit report and lodge an ACR if necessary. The auditor should also provide reasons on the ACR as to why the trustee was unable to obtain the appropriate evidence.

Budget super reforms aligned with APRA's ongoing work

Speaking at a [recent forum](#), APRA Deputy Chair, Helen Rowell, said the super reforms announced in the 2020-21 Federal Budget are still very much aligned with APRA's agenda aimed at improving member outcomes. If passed by Parliament, Ms Rowell said the [Your Future, Your Super](#) package will shine a brighter light on fund performance and trustees' expenditure decisions.

In the near term, APRA said it will be working closely with the Government, ATO and ASIC on the detailed implementation plan for the Budget reforms. APRA will also be considering the changes that may be needed for its priorities and work plan, including potential changes to the MySuper Heatmap. Ms Rowell said APRA's expanded data collection under the Super Data Transformation program will be critical to the implementation of the reforms.

Super death benefit rollovers: ATO reporting clarification

The ATO has sought to [clarify](#) the reporting requirements for superannuation death benefit rollovers following retrospective amendments made in June 2020. The amendments to s 295-190(1) of the ITAA 1997, with effect from 1 July 2017, seek to ensure that super death benefits that include life insurance proceeds with an untaxed element are not included in the receiving fund's assessable income when they are rolled over to a new fund.

The ATO says a transferring fund is still required to apply s 307-290 of the ITAA 1997 to determine if there is an untaxed element in the lump sum being rolled over where they have claimed, or will claim in relation to the benefit, deductions for premiums for certain types of insurance under ss 295-465 or 295-470.

However, where a dependant beneficiary rolls over a death benefit, it is the Commissioner's view that there is insufficient connection between any deductions claimed by the transferring fund and any lump sum benefits paid by the receiving

fund from the dependant beneficiary's new pension interest, for s 307-290 to apply to any of those subsequent payments.

When reporting death benefit rollovers from a fully taxed fund, the ATO says it is not necessary to include an element untaxed in the fund via item 16 of the death benefits rollover statement. Any amount that is determined under s 307-290 can be reported as a taxable component - element taxed in the fund.

SMSF administrative penalties: ATO guidance

The ATO has issued [Practice Statement PS LA 2020/3](#) Self-managed superannuation funds - administrative penalties imposed under subsection 166(1) of the Superannuation Industry (Supervision) Act 1993.

If a trustee contravenes a provision of the SISA listed in s 166, an administrative penalty is imposed. Administrative penalties apply to contraventions which occur on or after 1 July 2014. The purpose of this Practice Statement is to provide guidance on:

- when an entity becomes liable to one or more administrative penalties under the SISA;
- which entities are liable to pay the administrative penalty;
- the Commissioner's remission considerations, and
- objection, review and appeal rights relating to the remission decision.

It sets out four basic steps in administering the penalty imposed under s 166:

- Step one - determine if a penalty is imposed by law;
- Step two - determine who is liable to the penalty;
- Step three - determine if remission is appropriate; and
- Step four - notify each trustee and/or each director of the corporate trustee of the liability to pay the penalty.

The Practice Statement has a number of examples to illustrate its intended operation. It was not issued in draft form.

Date of effect: 15 October 2020.

REGULATOR NEWS

Tax Practitioners Board appointments announced

The Government has [announced](#) the appointment of Mr Peter de Cure, Ms Judy Sullivan and Mr Craig Stephens as part-time members of the Tax Practitioners Board (TPB) for a three-year period. The Assistant Treasurer said these appointments will ensure a high level of skill and experience is available to the TPB as the responsible body for the registration and regulation of tax practitioners.

APRA's annual report flags key performance measures

APRA has released its [Annual Report 19/20](#) setting out its key performance measures for the 2019-20 financial year. APRA measures itself against its core statutory functions, including the incidence of failure of APRA regulated institutions and the efficient administration of the Financial Claims Schemes (FCSs).

In terms of the efficiency of its operations, APRA said its total operating expenditure for the 12 months to 30 June 2020 was \$196.2m (against the original budget of \$184.2m). Relative to the size of the industries APRA supervises, the cost per \$1,000 of assets supervised was 2.6 cents in 2019-20.

During 2019-20, APRA said its supervisors had extensive interaction with super trustees that present as "red" on the MySuper heatmap to understand how they plan to address areas of identified underperformance. APRA's supervision of super also focused on monitoring the financial health of individual super funds in response to COVID-19 and the impacts flowing from the Government's early release of super scheme, including assessing liquidity risk, the impact on asset allocations and operational risk. A total of \$23.3 billion worth of applications was made up to early July 2020.