

## **TAXATION**

### **ATO super guarantee non-compliance activities “partly effective”**

ANAO has released a report addressing super guarantee non-compliance which found that the ATO’s activities were only “partly effective”.

### **Tax treatment of software as a service: ATO survey**

ATO is encouraging taxpayers to contact them to share their experiences about the increasing use of software as a service.

### **ATO warning about fake TFN and ABN scams**

ATO has reported an increase in fake websites offering to provide TFNs and ABNs usually promoted on social media platforms.

### **TPB registration renewal and ID verification**

TPB has issued a reminder for all registered individual tax practitioners that they must complete a one-off proof of identity process to secure their personal information.

### **Labor announces multinational tax policy**

Labor has announced that, if elected, it will move to implement a multinational tax integrity package to close tax loopholes.

### **Commonwealth Seniors Health Card: increase in income threshold**

Both Labor and the Coalition have announced that they will increase the income test threshold for the Commonwealth Seniors Health Card from 1 July 2022.

### **Deeming rates to be frozen for two years**

Labor and the Coalition have announced that they will freeze the social security deeming rates for the next two years.

**Stolen generations payments in Vic: ATO factsheet**

ATO has published a factsheet on the tax treatment of lump sums paid by the Victorian Government under the Stolen Generations Reparations Package.

**CPI March 2022 quarter**

ABS has released the CPI index number of 123.9 for the March 2022 quarter, which is up from the December 2021 quarter.

**Anti-money laundering rules: online gambling**

The timeline for customer identification procedures for online gamblers has been reduced to three days.

**2022-23 Victorian State Budget handed down**

The Victorian State Budget for 2022-23 has been handed down, it contained no new tax-related measures.

**Appeals update: GST and casinos**

Taxpayers have applied for special leave to appeal to the High Court from the decision of the Full Federal Court which concerned commissions and rebates paid by casinos.

## **FINANCIAL SERVICES**

### **AUSTRAC guides to prevent abuse of digital currencies**

AUSTRAC has released two new financial crime guides to help businesses stop ransomware attack payments and the criminal abuse of digital currencies.

### **Westpac ordered to pay penalty for ASIC compliance actions**

The Federal Court has ordered Westpac to pay \$113m in penalties for compliance failures across multiple Westpac businesses.

## **SUPERANNUATION**

### **ASIC action on member communications by super fund**

ASIC has reported that Maritime Super Pty Ltd has paid \$26,640 to comply with two infringement notices issued by ASIC for allegedly misleading statements to members.

### **APRA super reporting: tax rebates from insurance premiums**

APRA has published a new set of FAQs to provide further guidance to registrable super entity licensees on the reporting standards for Phase 1 of SDT project.

### **Court finds RI Advice failed to adequately manage cybersecurity risks**

In an Australian first, the Federal Court has found Australian Financial Services licensee, RI Advice, breached its license obligations to act efficiently and fairly when it failed to have adequate risk management systems to manage its cybersecurity risks. More information [here](#)

## **REGULATOR NEWS**

### **TPB: supporting privacy awareness week**

As a part of the privacy awareness week, the TPB has updated its worksheet designed to assist businesses implement a best practice approach to protecting personal information.

## **TAXATION**

### **ATO super guarantee non-compliance activities “partly effective”**

The Australian National Audit Office (ANAO) has released a report, [Addressing Superannuation Guarantee Non-Compliance](#), which found that the ATO's Super Guarantee non-compliance activities are only "partly effective". The Auditor-General has recommended that the ATO enhance its performance reporting and implement a preventative compliance strategy, including the use of enforcement and debt-recovery powers to achieve greater employer compliance with SG obligations.

The Auditor-General found that the ATO's compliance activities continue to be mainly "corrective and reactive" and only had a small influence on reducing the Super Guarantee "gap" over time. The report noted that employers paid \$61.4bn in 2018-19 as the correct amount of SG on time to the fund chosen by the employee, representing a compliance rate above 94%. The net SG gap was estimated at \$2.5bn for 2018-19.

The ATO welcomed the ANOA report noting that it has already begun implementing a preventative compliance strategy by fusing new data sources like Single Touch Payroll reporting and reporting from super funds. The ATO agreed with the recommendation of setting targets for SG performance but noted that the SG gap and performance have some challenges. The ATO also agreed with the recommendations around debt recovery and increased use of its powers. (Source: [ATO media release, 27 April 2022](#).)

### **Tax treatment of software as a service: ATO survey**

With an increase in the use of Software as a Service (SaaS), the ATO is encouraging taxpayers to contact them about the tax treatment of their SaaS expenses. In a [website update](#), the ATO notes that users of SaaS typically subscribe to access and use software which is stored on servers under the control of the software owner (ie in the cloud). This model replaces more traditional models which involve the acquisition or licensing of rights in connection with copies of software being acquired and stored on computers of the taxpayer for use.

When using SaaS, taxpayers will typically incur subscription fees and costs relating to customisation and configuration of the software. The ATO said the deductibility of

these costs for tax purposes depends on the facts and circumstances of each case.  
ATO contact - email: [Christopher.Hogger@ato.gov.au](mailto:Christopher.Hogger@ato.gov.au).

## ATO warning about fake TFN and ABN scams

The ATO has [reported](#) an increase in fake websites offering to provide tax file numbers (TFNs) and Australian business numbers (ABNs). The ATO said the fake TFN and ABN services are often advertised on social media platforms and offer to obtain a TFN or ABN for a fee. Instead of delivering this service, the scammer uses these fraudulent websites to steal both money and personal information. The ATO said scammers are also impersonating the ATO, making threats, demanding the payment of fake tax debts or claiming a TFN has been 'suspended' due to fraud.

## TPB registration renewal and ID verification

The TPB has issued a [reminder](#) for all registered individual tax practitioners that they must complete a one-off proof of identity (POI) process that helps secure their personal information. The TPB said that a number of individual tax practitioners have yet to complete the POI process and will be prompted to do so at their next renewal.

[Instructions](#) and a [step-by-step video](#) is available if required.

## Labor announces multinational tax policy

Labor has announced that, if elected, it will move to implement a multinational tax integrity package to "close tax loopholes exploited by multinational companies". The Shadow Treasurer, Jim Chalmers, said Labor would tackle multinational tax avoidance in the following four ways:

1. Supporting the OECD's Two-Pillar Solution for a global 15% minimum tax, and ensuring some of the profits of the largest multinationals - particularly digital firms - are taxed where the products or services are sold.
2. Limiting debt-related deductions by multinationals at 30% of profits from 1 July 2023, consistent with the OECD's recommended approach, while maintaining the arm's length test and the worldwide gearing ratio.
3. Limiting the ability for multinationals to abuse Australia's tax treaties when holding intellectual property in tax havens from 1 July 2023.

4. Introducing transparency measures including reporting requirements on tax information, beneficial ownership, tax haven exposure and in relation to government tenders.

**Date of effect:** Labor said it would consult with industry on the implementation of these proposed measures, which would not start before 2023. Labor claims the measures would raise \$1.89bn over the forward estimates.

### **Commonwealth Seniors Health Card: increase in income threshold**

Both Labor and the Coalition have announced that they will increase the income test threshold for the Commonwealth Seniors Health Card (CSHC) from 1 July 2022. The Prime Minister [said](#) the CSHC income test threshold for singles will be increased from \$57,761 to around \$90,000 (and from \$92,416 to \$144,000 for couples). The Opposition Leader [said](#) Labor would also widen eligibility for the CSHC in line with the Government's announcement.

### **Deeming rates to be frozen for two years**

Labor and the Coalition have announced that they will freeze the social security deeming rates for the next two years. The Prime Minister [said](#) about 450,000 Age Pensioners and 440,000 other social security recipients would benefit from this measure. The lower deeming rate will be frozen at 0.25% for financial investments up to \$53,600 for single pensioners and \$89,000 for pensioner couples. The upper deeming rate will remain at 2.25% on investment assets over the amount of \$53,600 (or \$89,000 for couples). The Opposition Leader [said](#) Labor would also freeze the deeming rates for two years.

### **Stolen generations payments in Vic: ATO factsheet**

The ATO has published a [fact sheet](#) on the tax treatment of lump sums paid by the Victorian Government under the Stolen Generations Reparations Package and Stolen Generations Funeral Fund. The ATO says such payments by the Victorian Government to a Stolen Generations member are not taxable. Accordingly, these payments do not need to be shown in the tax return for a Stolen Generations member because they are not taxable.

## **CPI March 2022 quarter**

The Australian Bureau of Statistics (ABS) has [released](#) the CPI index number of 123.9 for the March quarter 2022 (up from 121.3 for the December 2021 quarter). This CPI index number is used to index certain tax and superannuation amounts under Subdiv 960-M of the ITAA 1997. The index number is also used for FBT purposes concerning remote area benefits (under ss 60 and 60AA of the FBTAA).

The CPI rose 2.1% for the March 2022 quarter. The most significant price rises were for New dwelling purchases by owner-occupiers (+5.7%), Automotive fuel (+11.0) and Tertiary education (+6.3%). Over the year to the March 2022 quarter, the CPI is now running at 5.1%.

## **Anti-money laundering rules: online gambling**

The timeline for customer identification procedures for online gamblers has been reduced to three days.

The Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 sets out the special circumstances that allow an online gambling services provider to carry out the applicable customer identification procedure after commencement of the provision of online gambling services.

The rules currently require reporting entities to carry out the applicable customer identification procedure in relation to online gambling services within 14 days of when an account is opened in the name of the customer. The [Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2022 \(No 1\)](#) reduces this period to 72 hours.

The amendment takes effect on 2 May 2022.

## **2022-23 Victorian State Budget handed down**

The Victorian State Budget for 2022-23 was [handed down](#) on 3 May 2022. There were no new tax-related measures announced in the Budget.

The Budget papers state that State taxation revenue is forecast to increase by \$6.4 billion in 2021-22, as follows.



- Revenue from land transfer duty is expected to increase to \$10.2 billion in 2021-22.
- Revenue from land tax is expected to increase to \$4.8 billion in 2022-23 and is expected to grow by an average of 7.2% a year over the forward estimates.
- Revenue from payroll tax is expected to increase to \$6.8 billion in 2022-23.
- Revenue from the Mental Health and Wellbeing Levy is estimated to be \$819 million in 2022-23 and is expected to grow at an average annual rate of 4.7% over the forward estimates.
- Revenue from gambling taxes is forecast to increase to \$2.4 billion in 2022-23.
- Revenue from motor vehicle taxes is expected to increase to \$2.9 billion in 2021-22.
- Revenue from insurance taxes is expected to increase to \$1.8 billion in 2022-23.

### Appeals update: GST and casinos

The taxpayers have [applied](#) for special leave to appeal to the High Court from the decision of the Full Federal Court in *FCT v Burswood Nominees Ltd as trustee for Burswood Property Trust & Anor* [2021] FCAFC 151. In that case, the Full Federal Court allowed the ATO's appeal against a decision that commissions and rebates paid by two casinos under agreements with junket tour operators should be taken into account in working out the casinos' "global GST amounts" for the purposes of the special GST rules (in Div 126 of the GST Act) governing gambling supplies.

The special leave application is scheduled to be heard by the High Court in Sydney on Friday, 13 May 2022.

## **FINANCIAL SERVICES**

### **AUSTRAC guides to prevent abuse of digital currencies**

AUSTRAC has released two new financial crime guides to help businesses stop ransomware attack payments and the criminal abuse of digital currencies:

- [Preventing the criminal abuse of digital currencies financial crime guide](#)
- [Detecting and stopping ransomware financial crime guide](#)

The AUSTRAC guides contain practical information and indicators to help businesses identify and report if a payment could be related to ransomware attacks, or someone could be using digital currencies to commit serious crimes such as money laundering, scams, or terrorism financing.

AUSTRAC CEO Nicole Rose said businesses must understand how to distinguish between criminal activity and customers using digital currencies for legitimate purposes, and the importance of reporting suspicious activity to AUSTRAC. Financial service providers also need to be alert to the signs of criminal use of digital currencies, including their use in ransomware attacks.

### **Westpac ordered to pay penalty for ASIC compliance actions**

The Federal Court has [ordered](#) Westpac to pay \$113 million in penalties for compliance failures across multiple Westpac businesses, including banking, superannuation, wealth management and insurance. The legal actions involved six civil penalty proceedings brought by ASIC.

The Court imposed a \$40m court penalty for fees for no service involving deceased customers after finding that Westpac and related entities charged over \$10.9m in advice fees to 11,800 deceased customers for financial advice services that were not provided. The Court noted that systems and compliance failures were a common feature and the misconduct by Westpac was considered "serious".

A \$20m penalty was imposed in relation to members being charged insurance premiums that included commission payments, despite commissions having been banned. Some members also paid commissions to financial advisers via their premiums even though they had elected to have the financial adviser component

removed from their account. For its part, Westpac consented to the orders and will remediate more than \$80m to customers.

## **Court finds RI Advice failed to adequately manage cybersecurity risks**

Excerpt from the ASIC media release 5 May 2022:

The finding comes after a significant number of cyber incidents occurred at authorised representatives of RI Advice between June 2014 and May 2020. In one of the incidents, an unknown malicious agent obtained, through a brute force attack, unauthorised access to an authorised representative's file server from December 2017 to April 2018 before being detected, resulting in the potential compromise of confidential and sensitive personal information of several thousand clients and other persons.

ASIC Deputy Chair Sarah Court said 'These cyber-attacks were significant events that allowed third parties to gain unauthorised access to sensitive personal information. It is imperative for all entities, including licensees, to have adequate cybersecurity systems in place to protect against unauthorised access.

'ASIC strongly encourages all entities to follow the advice of the Australian Cyber Security Centre and adopt an enhanced cybersecurity position to improve cyber resilience in light of the heightened cyber-threat environment,' concluded Ms Court.

[Find out more >](#)

## **SUPERANNUATION**

### **ASIC action on member communications by super fund**

ASIC has [reported](#) that Maritime Super Pty Ltd has paid \$26,640 to comply with two infringement notices issued by ASIC for allegedly misleading statements to members about Maritime Super's investment partnership with Host-Plus Pty Ltd. At ASIC's request, Maritime Super issued a corrective disclosure confirming that some Maritime members may face higher investment fees and costs as a result of the partnership with Hostplus.

### **APRA super reporting: tax rebates from insurance premiums**

APRA has published a [new set of FAQs](#) to provide further guidance to registrable superannuation entity licensees on the reporting standards for Phase one of the Superannuation Data Transformation (SDT) project.

APRA said tax rebates from insurance premiums as disclosed to members should be reported in SRF 251.3 where they apply to all members under the relevant insurance policy. Rebates that are dependent on member activity, such as reductions to contributions tax should not be reported under SRF 251.3 table 2 column 11. In relation to historical insurance data, APRA expects reporting for any insurance policies that may have been impacted by merger activity or have ceased during the reporting period.

## **REGULATOR NEWS**

### **TPB: supporting privacy awareness week**

As part of the [Privacy Awareness Week](#) – which runs from 2 to 8 May 2022 and is led by the [Office of the Australian Information Commissioner](#) – the TPB has updated its [worksheet](#) designed to assist businesses implement a "best-practice approach" to protecting personal information.

The TPB points out that registered tax practitioners are required to collect, use and store the personal information of clients. Good privacy practices can mitigate the risks relating to the loss of personal information of clients.