

## **SUSTAINABILITY**

### **IESBA Sustainability Roundtable**

The IESBA hosted one of four global roundtables in Sydney last week. The IPA Group was represented at the forum, which consisted of keynote addresses and rich discussions in breakout rooms.

### **Safeguard Mechanism reform – Australia’s flagship climate policy**

Two weeks ago, the IPA reported on the Safeguard Mechanism debate in the context of the release of the IPCC’s Sixth Assessment Report. A couple of days later, a deal was struck enabling the Labor Government’s reform to pass through.

### **Consumers care about sustainability-and back it up with their wallets**

A US study from McKinsey and NielsonIQ examines sales growth for products that claim to be environmentally and socially responsible. The study broadly reveals a clear and material link between ESG-related claims and consumer spending.

## **TAXATION**

### **Electronic sales suppression technology progress report**

Treasury and the ATO have issued a report on the operation of 2018 legislation which strengthened penalties to deter the possession, manufacture and distribution of ESST.

### **TPB releases three new guidance documents**

The Tax Practitioners board has released three new TPB information sheets on tax and BAS agent services.

### **Disclosure of subsidiaries by public companies: draft legislation**

Treasury has released draft legislation which will require Australian public companies (listed and unlisted) to disclose information on the number of subsidiaries.

### **Productivity Commission five year inquiry report released**

The Productivity Commission has released the report on its latest five-year productivity inquiry.

### **FBT: LAFHA reasonable amounts for meals**

ATO has released the weekly amounts for reasonable food and drink expenses for employees receiving a LAFHA for the 2023-23 FBT year.

### **FBT: cents per kilometre rates 2023-24**

ATO has published the cents per kilometre rates for calculating the taxable value of fringe benefit arising in the 2023-24 FBT year from the private use of motor vehicles.

### **Waiver of tax invoice requirement: instrument registered**

ATO has registered a series of legislative instruments waiving the requirement to hold a tax invoice when they hold a document that meets the requirements prescribed.

### **Novated leases for motor vehicles: GST Determination registered**

ATO has registered a determination that waives the requirement to hold a tax invoice when making an acquisition through a novation arrangement.

### **GST treatment of financial supplies**

ATO issued an Addendum to GSTR 2002/2 on financial supplies which includes general updates for amendments to GST rules.

## **GST treatment of ATM service fees and card surcharges**

ATO has released a draft update to GSTR 2014/2 which includes proposed changes to reflect various changes to RBA's rules.

## **IESBA proposes Tax Planning and Related Services revisions to the Code**

The International Ethics Standards Board for Accountants (IESBA) has released Exposure Draft [Proposed Revisions to the Code Addressing Tax Planning and Related Services](#) for public comment. Members are encouraged to send comments to the IPA prior to **5 May 2023** at [ipaadvocacy@publicaccountants.org.au](mailto:ipaadvocacy@publicaccountants.org.au).

## **One month to go! New lodgment deferral function coming**

The ATO are working with registered agents and associations to make sure the new lodgment deferrals function in Online services for agents is ready to launch in late April.

## **FINANCIAL SERVICES**

### **ASIC report: Superannuation insurance outcomes for members**

ASIC has released a report of its review of a sample of 15 super trustees and their progress on delivering better life insurance outcomes for members.

## **SUPERANNUATION**

### **Super balances above \$3m consultation paper released**

Treasury has released a consultation paper addressing the announcement to increase the tax rate for super fund earnings from 15% to 30% for super balances above \$3m.

## **SMSFs: ATO rectification directions**

ATO has released PS LA 2023/1 which sets out the relevant matters ATO staff should consider when deciding whether to issue a rectification direction to an SMSF trustee.

## **Preparing to conduct your SMSF Audits**

‘As a self-managed super fund (SMSF) auditor you play a critical role in helping maintain the health and integrity of the sector through your annual SMSF audits’.

## **Lodging your SAR through your tax professional?**

The ATO website states that ‘If you registered your self-managed super fund (SMSF) during the 2022 income year and you have a tax professional, your SMSF annual return (SAR) was due on 28 February 2023. If your return has not been lodged, you should do so immediately to avoid penalties.’

## **REGULATOR NEWS**

### **IGTO quarterly reporting pack Q2 for FY23**

The IGTO has released its FY23 Q2 reporting pack highlighting its activities during the quarter.

## **SUSTAINABILITY**

### **IESBA Sustainability Roundtable**

The IESBA hosted one of four global roundtables in Sydney last week. The IPA Group was represented at the forum, which consisted of keynote addresses and rich discussions in breakout rooms.

As mentioned in the previous edition of Technical Advantage, the IESBA approved two new standard setting projects in December 2022:

- Profession-agnostic ethics and independence standards for sustainability reporting and assurance.
- The use of experts.

The IPA will have more analysis from the IESBA Roundtable via Public Accountant. In the meantime, we encourage you to read [this summary](#) of Professor Carol Adams' keynote address.

### **Safeguard Mechanism reform – Australia's flagship climate policy**

Two weeks ago, the IPA reported on the Safeguard Mechanism debate in the context of the release of the IPCC's Sixth Assessment Report. A couple of days later, a deal was struck enabling the Labor Government's reform to pass through.

Importantly, the Safeguard Mechanism reform introduces:

- Resetting baselines to remove any 'headroom'.
- 4.9% annual decline rate of baselines until 2030, signalling to the 215 participants that they must get serious about emissions reductions.
- Introduction of Safeguard Mechanism Credits (SMCs), enabling firms who emit below their total baseline to sell excess credits to other safeguard facilities.

Catch up on the IPA's commentary [here](#), or read [this explainer](#) from Coors Chambers Westgarth.

## Consumers care about sustainability-and back it up with their wallets

A joint US study from McKinsey and NielsonIQ examines sales growth for products that claim to be environmentally and socially responsible. The study broadly reveals a clear and material link between ESG-related claims and consumer spending.

Some key findings:

1. Products that make environmental, social, and governance-related claims have achieved disproportionate growth between 2018-22 in the US (1.7 percentage points).
2. Performance of ESG claims vary by product category.
3. Brands of different sizes making ESG-related claims have achieved differentiated growth.
4. Brands with more sales from products making ESG-related claims enjoy greater loyalty.

To read more, click [here](#).

## TAXATION

### Electronic sales suppression technology progress report

Treasury and the ATO have [issued a report](#) on the operation of 2018 legislation which strengthened penalties to deter the possession, manufacture and distribution of electronic sales suppression technology (or "ESST"). The Treasury Laws Amendment (Black Economy Taskforce Measures No 1) Act 2018 required that a review be undertaken as soon as practicable after two years after assent.

This Report states that, in addition to the introduction of the stronger penalties, the ATO has conducted significant effective compliance action. As at late 2022, 46 cases have been completed, applying around \$1 million in penalties and raising some \$7.4 million in liabilities. Additional cases are still underway and further enforcement activity is planned. However, further compliance action is required to

bring this risk within tolerance, as it includes the potential to disrupt entire supply chains.

## **TPB releases three new guidance documents**

The Tax Practitioners Board has released three new TPB Information Sheets which explain:

- the types of services that constitute a BAS service ([TPB\(I\) 38/2023 What is a tax agent service?](#));
- the types of services that constitute a tax agent service ([TPB\(I\) 39/2023 What is a BAS service?](#)); and
- the types of arrangements that determine if a tax agent or BAS service is being provided for a fee or other reward ([TPB\(I\) 40/2023 What is a fee or other reward?](#)).

The Sheets were all released in draft form in August 2022. At the time of release, it was stated that the new guidance papers were designed to assist "those who are unsure to determine whether they should be registered with the TPB".

## **Disclosure of subsidiaries by public companies: draft legislation**

Treasury has released draft legislation which will require Australian public companies (listed and unlisted) to disclose information on the number of subsidiaries and their country of tax domicile.

The measures in the [Treasury Laws Amendment \(Measures for Consultation\) Bill 2023: Multinational Tax Transparency – Disclosure of Subsidiaries](#) will apply to financial statements prepared by public companies for each financial year commencing on or after 1 July 2023.

The changes will only apply those public companies who are required by the accounting standards to prepare financial statements in relation to a consolidated entity (ie Accounting Standard AASB 10). Such entities will be required to provide the following information in relation to entities within the consolidated entity:

- the names of each entity at the end of the financial year;
- whether the entity was a body corporate, partnership or trust at the end of the financial year;

- whether at the end of the financial year, the entity was any of the following: (i) a trustee of a trust within the consolidated entity, (ii) a partner in a partnership within the consolidated entity, (iii) a participant in a joint venture within the consolidated entity;
- if the entity was a body corporate, where the entity was incorporated or formed;
- if the entity is a body corporate, the public company's percentage ownership of each of those entities that are body corporates at the end of the financial year; and
- the tax residency of each of those entities during the financial year.

**Comments** are due by 13 April 2023.

## **Productivity Commission five year inquiry report released**

The Productivity Commission has released the report on its latest [Five-Year Productivity Inquiry](#).

The 1,000 page or so report makes 71 recommendations across 29 "reform directions". These reform directives are grouped into five themes: (i) building an adaptable workforce; (ii) harnessing digital tech and diffusing innovation; (iii) creating a more dynamic economy; (iv) lifting productivity in the non-market sector; and (v) securing net-zero at least cost.

Recommendation 3.4 deals directly with tax, stating that governments should be supportive of tax arrangements that: promote skilled labour supply; improve tax neutrality in respect of savings and investment; encourage efficient asset transfers and capital allocation; foster market entry and competition; and support efficient risk management by firms and individuals.

At least 36 of the 71 recommendations involve State and Territory governments, which the [Treasurer states](#) will be taken up at the next meeting in June.

## **FBT: LAFHA reasonable amounts for meals**

The ATO has [released](#) the weekly amounts it considers reasonable for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit for the 2023-24 FBT year (ie starting 1 April 2023).



For Australian locations, the reasonable weekly amounts are: 1 adult - \$316; 2 adults - \$474; 3 adults - \$632; 1 adult and 1 child - \$395; 2 adults and 1 child - \$553; 2 adults and 2 children - \$632; 2 adults and 3 children - \$711; 3 adults and 1 child - \$711; 3 adults and 2 children - \$790; and 4 adults - \$790. For larger family groupings, \$158 is added for each additional adult, while \$79 is added for each additional child under 12.

An "adult" for this purpose is a person who is aged 12 years or more at 31 March 2023.

### **FBT: cents per kilometre rates 2023-24**

The ATO has [published](#) the cents per kilometre rates for calculating the taxable value of a fringe benefit arising in the 2023-24 FBT year from the private use of a motor vehicle (other than a car). The rates are:

- for vehicles with an engine capacity of up to 2,500cc – 62 cents/km;
- for vehicles with an engine capacity of over 2,500cc – 73 cents/km; and
- for motorcycles – 18 cents/km.

### **Waiver of tax invoice requirement: instrument registered**

The ATO has registered a series of legislative instruments waiving the requirement to hold a tax invoice when they hold a document that meets the requirements prescribed in the instruments, as follows:

- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Acquisitions by Recipients Using Electronic Purchasing Systems\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions by Recipients Using Electronic Purchasing Systems) Legislative Instrument 2013 - waives the requirement for a recipient making a creditable acquisition using electronic purchasing systems to hold a tax invoice when they hold a document that meets the requirements prescribed. EFFECTIVE 25 March 2023;
- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Acquisitions from or by a Beneficiary of a Bare Trust\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) Legislative Instrument 2013 - waives the requirement for a recipient or a beneficiary of a bare trust to hold a tax invoice

when they hold a document that meets the requirements prescribed.  
EFFECTIVE 25 March 2023;

- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Creditable Acquisition of Taxi Travel\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Creditable Acquisition of Taxi Travel) Legislative Instrument 2013 - waives the requirement for a recipient making a creditable acquisition of taxi travel to hold a tax invoice when they hold a document (for the supply of taxi travel) that meets the requirements prescribed. EFFECTIVE 24 March 2023;
- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Acquisitions from or by a Partnership\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Partnership) Legislative Instrument 2013 - waives the requirement for a recipient or a partnership to hold a tax invoice when they hold a document that meets the requirements prescribed. EFFECTIVE 24 March 2023;
- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Offer Documents and Renewal Notices\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Offer Documents and Renewal Notices) Legislative Instrument 2013 - waives the requirement to hold a tax invoice when the recipient holds an offer document or a renewal notice that meets the requirements prescribed. EFFECTIVE 24 March 2023; and
- [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Acquisitions Where Total Consideration Not Known\) Determination 2023](#) - replaces A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions Where Total Consideration Not Known) Legislative Instrument 2013 - waives the requirement for a recipient to hold a tax invoice in certain circumstances, where the total price of an acquisition cannot be ascertained at the time the acquisition is made, and they hold documents that meet the requirements prescribed. EFFECTIVE 24 March 2023.

### **Novated leases for motor vehicles: GST Determination registered**

The ATO has registered the [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Acquisition of a Motor Vehicle Under a Novated Lease Arrangement\) Determination 2023](#).

It waives the requirement for an employer making a creditable acquisition of a motor vehicle by way of a lease through a full or split full novation arrangement to hold a

tax invoice for an input tax credit to be attributable to a tax period when they hold documents that meet the requirements prescribed in the Instrument.

It replaces the 2013 Instrument which was due to sunset and makes no changes to the current operation of the law.

## **GST treatment of financial supplies**

The ATO has issued an [Addendum to GSTR 2002/2](#) on financial supplies. Key changes made to the GST Ruling include:

- general updates for amendments to the GST rules (eg in relation to cross-border supplies and digital currency);
- a buy-now pay-later example that illustrates the ATO's longstanding view on interest-free loans; and
- updates to Sch 2 of GSTR 2002/2 (business to business supplies) to indicate when certain foreign currency-denominated products and overseas payment products are GST-free.

**Date of effect:** retrospective.

## **GST treatment of ATM service fees and card surcharges**

The ATO has released a [draft update to GSTR 2014/2](#) (GST: treatment of ATM service fees, credit card surcharges and debit card surcharges). Proposed changes to the GST Ruling include amendments to reflect the RBA's separate designation of prepaid cards, changes to the RBA's rules for merchant surcharging and changes to industry self-regulatory documents.

**Proposed date of effect:** retrospective.

**Comments** on the draft are due by 21 April 2023.

## **IESBA proposes Tax Planning and Related Services revisions to the Code**

The International Ethics Standards Board for Accountants (IESBA) has released Exposure Draft *Proposed Revisions to the Code Addressing Tax Planning and Related Services* for public comment.

The proposed revisions respond to public interest concerns about tax avoidance and the role played by consultants, including professional tax advisers. Among other matters, the proposed ethical framework:

- Explains the types of threats to compliance with the fundamental ethics principles of the Code that might be created when professional accountants are involved in tax planning.
- Sets a clear principle that professional accountants recommend or otherwise advise on a tax planning arrangement only if they have determined that there is a credible basis in laws and regulations for it.
- Requires consideration of the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the tax planning arrangement before determining whether to proceed with the recommendation or advice.
- Provides practical guidance to assist professional accountants in navigating situations of uncertainty when carrying out tax planning.
- Deals with other practical matters, including disagreement with the client or management or those charged with governance, and documentation.

Members are encouraged to send comments to us prior to **5 May 2023** at [ipaadvocacy@publicaccountants.org.au](mailto:ipaadvocacy@publicaccountants.org.au).

## **One month to go! New lodgment deferral function coming**

The ATO are working with registered agents and associations to make sure the new lodgment deferrals function in Online services for agents is ready to launch in late April. Find out more and start getting your practice ready.

The benefits of the new function are that it will:

- provide a more intuitive experience – it will populate and validate data as you go, with on-screen prompts to help you complete your request
- become the single-entry point for all lodgment deferral requests – you'll no longer need to download and complete different spreadsheets or figure out which form to use
- allow you to apply for up to 40 lodgment deferrals at a time – if you need more deferrals, you can submit further request
- provide visibility of requests – you'll be able to view lodgment deferral requests you submitted in the previous 60 days

- enable quicker processing for certain requests – if your request meets low-risk (agent-assessed) guidelines, it will be processed within 48 hours. Other requests will continue to be escalated for review, which may take up to 28 days.

### **Get ready**

We understand that any improvement means an adjustment to how you do things in your practice. To get ready, we recommend you:

- ensure that staff submitting lodgment deferral requests have standard myGovID identity strength
- have access to client registration add/update permission in Online services for agents. Refer to Access Manager permissions for further details.
- let your staff know of the changes coming.

### **More information is coming**

Stay tuned for updates! In April, we'll be providing more information and guidance to support you and your practice to use the new function.'

## **FINANCIAL SERVICES**

### **ASIC report: Superannuation insurance outcomes for members**

ASIC has released a report ([REP 760](#)) of its review of a sample of 15 superannuation trustees and their progress on delivering better life insurance outcomes for members.

While the review found that trustees have shown progress with their insurance arrangements, ASIC said "trustees have not made a sufficient effort in all areas". As part of the review, ASIC has written individually to the trustees to provide feedback, including specific areas where improvements are required. REP 760 also includes recommendations of key actions for all trustees when making improvements to their insurance arrangements.

## **SUPERANNUATION**

## Super balances above \$3m consultation paper released

Treasury has released a [consultation paper](#) addressing the announcement to increase the tax rate for superannuation fund earnings from 15% to 30% for individuals with account balances above \$3 million. The closing date for submissions is 17 April 2023.

The intention is to increase the headline tax rate from 15% to 30% for earnings corresponding to the proportion of an individual's super balance that is greater than \$3 million. Earnings relating to assets below the \$3 million threshold will continue to be taxed at 15% (or zero if held in a retirement pension account).

The paper seeks feedback on the way in which Treasury will seek to implement the measure, outlined below.

- It will apply to individuals with a total superannuation balance ("TSB") of more than \$3 million. An individual's TSB is the combined value of all their super accounts. Where an individual holds more than one account, for example an account in a SMSF and an account in an APRA-regulated fund, the TSB is the combined value of both accounts.
- The measures will commence on 1 July 2025 and apply from the 2025-26 financial year onwards. This means individuals with a TSB more than \$3 million on 30 June 2026 will be subject to the new arrangements.
- Earnings on the part of an individual's TSB over \$3 million will attract an additional 15% tax. Earnings for this purpose will be calculated using a formula. Where an individual has multiple super accounts, a combined earnings amount will be calculated. If an individual has negative earnings, these can be carried forward indefinitely and offset against future earnings. Tax will be applied to part of the calculated earnings on a proportional basis. The proportion will be equal to the proportion of an individual's TSB that is more than \$3 million.
- The additional tax will be applied directly to the individual.
- The ATO will collect the relevant information and calculate the tax liability from information already provided to it for SMSFs, although existing reporting arrangements may need to be expanded for APRA-regulated funds.

Once the ATO has calculated the tax liability, a notice of assessment will be sent to the individual. Similar to the payment options for Div 293 tax, the individual can choose to pay the tax directly using personal assets or, alternatively, they can choose to release money from their super account.



## SMSFs: ATO rectification directions

The ATO has a range of compliance options for dealing with contraventions of the SIS Act and Regulations. One option is to give a rectification direction to an SMSF trustee (if an individual) or a director of a corporate trustee.

[Practice Statement PS LA 2023/1](#) sets out the relevant matters ATO staff should consider when deciding whether to issue a rectification direction. One key factor is the level of financial detriment that might reasonably be expected to be suffered by the SMSF in complying with a rectification direction. The ATO acknowledges that potential exposure to financial costs or losses is a natural consequence of unwinding a commercial arrangement. However, transaction costs or adverse market fluctuations from disposing of an asset, or the costs of rectifying a prohibited borrowing "would not usually bear much weight".

**Date of effect:** 30 March 2023.

## Preparing to conduct your SMSF Audits

The following information is available on the ATO website

'As an SMSF auditor it's your responsibility to:

- carry out the annual financial and compliance audit of an SMSF's operations
- provide the [Self-managed superannuation fund independent auditor's report](#) (NAT 11466) to trustees within 28 days of receiving all documentation.

To prepare for auditing an SMSF:

- check you have met all your [professional requirements](#)
- ensure you understand your responsibilities when accepting an engagement with a fund, including compliance with the [independence requirements](#).

We also have information on conducting an audit that could help you:

- [Financial audit](#)
- [Compliance audit](#)
- [Auditing an SMSF that is winding up](#)

We recommend you review our [auditor checklist](#) to ensure your audit file contains all required quality checks and documentation.'

## **Lodging your SAR through your tax professional?**

The ATP website states that 'If you registered your SMSF prior to the 2022 income year and you have a tax professional, your SAR may be due on 15 May or 5 June 2023. You should contact your tax agent now to find out when your SAR is due and ensure your tax professional is an authorised representative for your fund.

After this has been confirmed with your tax professional, you will need to:

- [appoint an auditor](#) at least 45 days before your due date
- [value the assets of the fund](#) at their market value.

You must ensure the fund is audited before your SAR is lodged, and that the SAR contains the correct auditor details.

All members of your SMSF will [receive an alert](#) when the SAR has been lodged if it indicates that the fund's bank account or electronic service address has been updated.

If your SAR hasn't been lodged after 2 weeks from the due date, then the compliance status of your SMSF on [Super Fund Lookup](#) may be changed to 'regulation details removed'. This means your SMSF will not be able to accept any further rollovers and employers may not be able to make superannuation guarantee contributions to your fund.

Make sure you are aware of your SMSF's lodgement due date and get prepared now to meet the deadline.'



## **REGULATOR NEWS**

### **IGTO quarterly reporting pack Q2 for FY23**

The IGTO has released its [FY23 Q2 reporting pack](#) highlighting its activities during the quarter. The report provides the Q2 update on the following:

- total complaints received and the Top five complaints received;
- IGTO's KPI results; and
- IGTO's Key Performance Areas.