

TAXATION

Justice and fairness for small businesses: IGTO report

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) has released a report aimed at improving the operation of the small business litigation funding program.

Taxable payments annual reports due: ATO reminder

The ATO has issued a reminder to businesses who are required to lodge a Taxable payments annual report by the deadline.

Intergenerational report

Treasury has released the 2023 Intergenerational report, the fifth in the series, which highlights five major forces that will shape the Australian economy.

Luxury car tax: principal purpose of car

The ATO has issued a luxury car tax determination that considers whether the principal purpose of a commercial vehicle is to carry passengers.

Update from Tax time meeting 15 August 2023

The ATO have provided an update from the Tax Practitioner Stewardship Group (TPSG) Tax Time meeting held on 15 August 2023.

Changes to Technical Help Desk

The ATO has issued a reminder that 'from Monday 20 November 2023, the Technical Help Desk (THD) phone line will be disconnected and you'll be directed to Online services help for technical support'.

Tax time 2023 – Tips to help your sole trader clients

The ATO has provided information for agents on the types of errors they are seeing in relation to sole traders.

SUPERANNUATION

Superannuation statistics for June 2023 quarter

APRA has released its quarterly superannuation performance publication and statistics for the June 2023 quarter.

REGULATOR NEWS

ASIC News

Updates from ASIC in the past week including media releases, news, articles and speeches.

Accounting Professional & Ethical Standards Board Limited (APESB) revises guidance on prohibitions in the Code for auditors

The APESB has issued a [technical alert](#) about its 'revised guidance to assist auditors, audit firms, professional accountants and other stakeholders with implementing revised prohibitions in APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code).'

TAXATION

Justice and fairness for small businesses: IGTO report

The Inspector-General of Taxation and Taxation Ombudsman ("IGTO"), Ms Karen Payne has released the report [Improving the operation of the Small Business Litigation Funding Program](#). The report is in relation to a review of the Small Business Litigation Program (the "Program"). The Program, announced back in early 2019, was intended to "level the playing field" for small businesses in litigious disputes with the ATO in the Small Business Tax Division of the Administrative Appeals Tribunal.

The report shares insights and observations from IGTO investigations of disputes commencing in October 2020 to present (and ongoing), lodged by small businesses and legal practitioners about the ATO's administration of the Program. It is primarily based on two initial dispute investigations by the IGTO which have now been completed (with three further dispute investigations currently in progress with the IGTO).

The IGTO observed that the ATO relied on its own costs in order to discourage rising costs (as a form of "soft cap") when the costs of the litigants began to exceed those initially estimated. The misunderstanding itself became an additional source of dispute and frustration in case preparations - because it was not clear what costs the small business would need to fund itself.

The IGTO made four recommendations (the report includes the ATO's response) that go to:

- establishing effective and clearly communicated parameters of the Program in funding agreements;
- ensuring clarity and transparency in the ATO's guidance material;
- implementing integrity measures to avoid abuse of the program (for example, where parties and legal representatives are related entities); and
- establishing protocols where the necessary substantiating documentation is the subject of privilege or confidentiality claims.

Taxable payments annual reports due: ATO reminder

The ATO has issued a [reminder](#) to businesses who are required to lodge a Taxable payments annual report ("TPAR") that the deadline is 28 August 2023.

This requirement may cover businesses in the building and construction industry as well as businesses that provide cleaning, courier and road freight, information

technology and security, investigation or surveillance services that have paid contractors in relation to these services.

The ATO recently issued more than 16,000 penalties for businesses who didn't lodge their TPARs for previous years. The average penalty for not lodging was approximately \$1,110.

Intergenerational report

Treasury has released the [2023 Intergenerational Report](#) ("2023 IGR"), the fifth in the series (following releases in 2002, 2010, 2015 and 2021).

It highlights five major forces that will shape the Australian economy over the coming decades: (i) population ageing; (ii) expanded use of digital and data technology; (iii) climate change and the net zero transformation; (iv) rising demand for care and support services; and (v) increased geopolitical risk and fragmentation.

Australia's total population is projected to reach 40.5 million in 2062-63, which is in line with the 2021 IGR estimate. Australia's population will continue to age over the next 40 years. The number of Australians aged 65 and over will more than double and the number aged 85 and over will more than triple. The number of centenarians is expected to increase six-fold.

Other things of note include the following.

- The overall participation rate is projected to decline gradually from 66.6% to 63.8% in 2062-63. Average hours worked is also expected to decline slightly.
- The ageing population will reinforce the trend towards a services-based economy, with the care and support sector and its workforce potentially doubling over the next 40 years.
- Tax as a share of the economy is assumed to be constant over the long run, but structural changes to the economy will put pressure on the revenue base over the coming decades.
- Decarbonisation of the transport industry and changing consumer preferences are expected to erode revenue from fuel and tobacco excise. Global demand for emissions-intensive commodities, and reliance on them as a source of revenue, is also likely to decline.

The five main spending pressures of health, aged care, the National Disability Insurance Scheme, defence, and debt interest payments are projected to rise from

around one-third to around one-half of all government spending. Gross debt is projected to reach 32.1% of GDP by 2062-63 due to these spending pressures.

Luxury car tax: principal purpose of car

[Luxury Car Tax Determination LCTD 2023/1](#), has been issued and considers whether the principal purpose of a commercial vehicle is to carry passengers.

For luxury car tax (LCT) purposes, a "car" is defined as a motor-powered road vehicle (but not a motorcycle or similar vehicle) designed to carry a load of under two tonnes and less than nine passengers. In addition, limousines are cars for LCT purposes. The LCT Act also includes a principal purpose test for commercial vehicles. A commercial vehicle is not treated a "luxury car" if it is not designed for the principal purpose of carrying passengers.

The ATO says the question of whether a car has the principal purpose of carrying passengers must be considered objectively. The focus is on the design of the vehicle, rather than how it is used in practice. Where a vehicle has several design purposes, it will be a question of fact and degree whether the purpose of carrying passengers is greater than each of the other design purposes.

LCTD 2023/1 also sets out the ATO's compliance approach, including a simplified method for utility vehicles. (This compliance approach was not included in the draft version of the Determination, LCTD 2022/D1).

Date of effect: retrospective.

Update from Tax time meeting 15 August 2023

The Tax Practitioner Stewardship Group (TPSG) Tax Time meeting was held on 15 August 2023

ATO Updates

Updates were provided from:

- ATO Systems and Digital services, no issues identified or reported across the various channels.
 - Service Delivery

- Self-preparer lodgments received were down by approximately 3% compared to the same time last year.
- Agent prepared lodgments are close to on par with last year.
- The average wait time for Tax Practitioner calls is around 5 minutes.
- Marketing and Communication, the tax time focus for this week through our communications and media activities includes:
 - communication highlighting an issue that has occurred with pay as you go (PAYG) instalment variations and what taxpayers need to do to ensure their variation is on their activity statement.
 - a reminder to tax agents to ensure the importance of [including their clients' preferred financial institution details \(FID\)](#) on all tax returns and lodgments (to ensure that any payments are made quickly and securely, directly to the preferred account).
 - a reminder to businesses and tax professionals of the R&D tax incentive, how to claim, online tools available and to register R&D activities before lodging income tax returns.
 - Promotion of the Open Forum event on 8 August, with articles in the *Tax Professionals newsletter* and via LinkedIn posts.
 - the latest tax time video for tax professionals focuses on the [lodgment support options](#) available to you if a situation beyond your control prevents you from lodging your clients' tax returns on time.
 - The Tax professionals newsletter features articles on: how to correctly calculate the value of depreciating assets using the [ATO's depreciation and capital allowances tool](#) whether your client needs [Director ID](#) and how and when to apply for it, promoting the new ruling on residency [Taxation Ruling TR 2023/1 Income tax: residency tests for individuals](#), how to [claim second-hand depreciating assets](#) for residential rental property, a reminder that [TPAR lodgments are due](#) on 28 August and explaining that when [crypto asset investors](#) receive staking rewards or airdrops, it's considered ordinary income and needs to be reported as 'Other' income on their tax return.
- Small Business:
 - Provided an update on Small Business boost measure, advising more work is being done to communicate with tax practitioners on the measure, including what is not in the measure.
 - Testing is currently being done with the profession. Further consultation will occur via the
 - Communication Content Working Group.
- Lodge and Pay:
 - We have identified an issue where offsetting to debts on hold may not be occurring as planned, meaning some clients will receive a refund instead of being offset to the debt on hold.

- Communication has also issued to the Tax Practitioner Stewardship Group, BAS Agent.

Association Group and via the *Tax professionals* newsletter.

Members discussed:

- The level of detail provided for the tax time statistics. The member who raised this will provide further information and will be considered out of session.
- Some reports of longer wait times for tax practitioner calls. Members were encouraged to send specific examples to the secretariat for further investigation. Recent examples for other issues have helped understand, identify issues and expedite solutions.
- The value of the 'lodge now' communication, acknowledging it has been helpful in letting people know that prefill data is available.

Member Issues

A member advised of a prefill issue relating to property, where a figure higher than the actual was populating. The issue will be investigated offline, and an update communicated with members at the next meeting.

No other business was raised.

Useful links

- [Tax Time 2023](#)
- [Overview of the key changes](#)
- [Support for your practice](#)
- [The Tax practitioner assistance \(TPA\) services](#)
- [TPSG Tax time 2023 key messages](#)
- [ATO Open forum](#)

Changes to Technical Help Desk

The ATO have said that 'If you're having difficulty accessing ATO online services, all self-help services are in one centralised location on ato.gov.au.'

Once the Technical Help Desk is disconnected, there will be a redirection to [Online services help](#) for technical support.

Tax time 2023 – Tips to help your sole trader clients

[Common errors](#) that the ATO are seeing include:

- ‘omitting income such as salary or wages earned outside of their business. Including non-monetary payments or payments in kind
- incorrectly claiming expenses, for example, claiming for the portion of an expense related to personal use or overstating the cost of goods sold and other business expenses
- incorrectly calculating business losses
- incorrectly applying non-commercial loss rules to offset the loss against other income
- incorrectly claiming PAYG withholding refunds
- incorrectly reporting or failing to report personal services income (PSI).’

Agents can help their clients to ‘avoid making these mistakes by sharing our [small business tax time toolkit](#) with them. There’s a directory of links, including information on business income and deductions, to help small businesses get things right.’

SUPERANNUATION

Superannuation statistics for June 2023 quarter

APRA has released its Quarterly Superannuation Performance publication and the Quarterly MySuper Statistics report for the [June 2023 quarter](#).

REGULATOR NEWS

ASIC news

ASIC has released the following updates in its Newsroom section:

- [25 August 2023 - MEDIA RELEASE 23-229MR ASIC welcomes appointment of three Commissioners](#)
- [25 August 2023 - MEDIA RELEASE 23-228MR ASIC alleges IAG misled home insurance customers on pricing discounts](#)
- [24 August 2023 - MEDIA RELEASE 23-227MR Melbourne man charged over alleged insider trading in Kidman Resources shares](#)
- [22 August 2023 - MEDIA RELEASE 23-226MR ASIC freezes assets of former Sydney financial adviser](#)
- [21 August 2023 - MEDIA RELEASE 23-225MR Federal Court case against liquidator dismissed](#)

Accounting Professional & Ethical Standards Board Limited (APESB) revises guidance on prohibitions in the Code for auditors

‘Auditors are required to be independent when undertaking audits, reviews and other assurance engagements. One key aspect of independence relates to the requirements prohibiting specific services and activities to audit and review clients.

APESB issued guidance in August 2020 that provided a summary of strictly prohibited non assurance services, prohibited non-assurance services based on materiality or other factors. It also included a summary of prohibitions relating to interests, relationships and actions or matters which need to be assessed against the enhanced conceptual framework.

This guidance has now been revised to incorporate recent amendments to the Code primarily relating to fees and non-assurance services, which are set out in the Compiled Code (December 2022). In particular, it addresses the new prohibition of providing non-assurance services to public interest entity audit clients if the service might create a self-review threat.’