

## **TAXATION**

### **Administrative Review Tribunal Bills: Parliamentary committee report**

The House of Reps Standing Committee on Social Policy and Legal Affairs has released its report recommending the passage of the AAT Bills.

### **Changes to Stage 3 tax cuts: Bills passed, await assent**

The Bills give effect to the Government's changes to the Stage 3 tax cuts as announced on 25 January 2024 has passed all stages without amendment.

### **Latest issue of ATO's interpretation NOW! released**

The ATO has released Episode 105 of its series on statutory interpretation entitled interpretation NOW!.

### **Bribes to foreign public officials: amending Bill passed**

Bill has been passed by Parliament to strengthen the legal framework for investigating and prosecuting foreign bribery.

### **GST: supplies of combination food**

GST Determination GSTD 2024/1 explains when a food item is a "combination" food under s 38-3(1)(c) of the GST Act.

### **Update from the ATO**

The ATO have released an update on a number of matters.

## **FINANCIAL SERVICES**

### **CSLR start date and Chair of the Board of CSLR limited announced**

The Government has announced that from 2 April 2024, consumers will be able to lodge claims for compensation under the Compensation Scheme of Last Resort ("CSLR").

### **Financial services misconduct compensation scheme: instrument**

As an interim measure ahead of the commencement of the start of the financial services misconduct compensation scheme on 2 April 2024, ASIC has registered an instrument.

## **SUPERANNUATION**

### **Superannuation statistics for the December 2023 quarter released**

APRA has released its Quarterly Superannuation Performance publication and the Quarterly MySuper Statistics report.

### **Estimate of illegal early access of super: ATO releases findings**

The ATO has published its estimates of illegal early access of superannuation from SMSFs before a condition of release has been met.

## **REGULATOR NEWS**

### **ASIC News**

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

### **APRA news**

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

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## **TAXATION**

### **Administrative Review Tribunal Bills: Parliamentary committee report**

The House of Reps Standing Committee on Social Policy and Legal Affairs has released its [report](#) recommending the passage of the [Administrative Review Tribunal Bill 2023](#) and [Administrative Review Tribunal \(Consequential and Transitional Provisions No 1\) Bill 2023](#).

The Bills, which are still before the House of Reps, have also been referred to the [Senate Legal and Constitutional Affairs Legislation Committee](#) with a report due by 24 July 2024. Submissions are due by 7 March 2024.

The Bills propose to establish the Administrative Review Tribunal to replace the Administrative Appeals Tribunal (AAT) to conduct merits reviews of decisions (including Taxation and Business decisions). Consequential amendments are proposed to the ITAA 1936, ITAA 1997, TAA, FBT Assessment Act, Tax Agent Services Act and SIS Act. However, the Bills retain a range of existing special rules for Tribunal reviews of taxation and charity matters to, among other things, protect tax revenue and uphold core tax principles and practices.

**Date of effect:** The Bills will commence 12 months after assent (or an earlier day to be fixed by Proclamation).

## Changes to Stage 3 tax cuts: Bills passed, await assent

The [Treasury Laws Amendment \(Cost of Living Tax Cuts\) Bill 2024](#) has passed all stages without amendment and awaits assent.

The Bill will give effect to the Government's changes to the Stage 3 tax cuts (as announced on 25 January 2024) to: reduce the 19% tax rate to 16%; reduce the 32.5% tax rate to 30%; increase the threshold above which the 37% tax rate applies from \$120,000 to \$135,000; and increase the threshold above which the 45% tax rate applies from \$180,000 to \$190,000. The changes apply from 1 July 2024.

The [Treasury Laws Amendment \(Cost of Living - Medicare Levy\) Bill 2024](#) has also passed all stages without amendment and awaits assent. The Bill will increase the Medicare levy low-income threshold for singles to \$26,000 for 2023-24 (up from \$24,276 for 2022-23). For couples with no children, the family income threshold will be increased to \$43,846 (up from \$40,939 for 2022-23). These changes apply from the 2023-24 income year.

## Latest issue of ATO's interpretation NOW! released

The ATO has released [Episode 105](#) of its series on statutory interpretation entitled interpretation NOW!.

## Bribes to foreign public officials: amending Bill passed

The [Crimes Legislation Amendment \(Combatting Foreign Bribery\) Bill 2023](#) has been passed by Parliament. It will strengthen the legal framework for investigating and prosecuting foreign bribery and will make consequential amendments to the ITAA 1997 to preserve the existing rule which prohibits a person from claiming as a deduction for a loss or outgoing a bribe to a foreign public official.

The Bill was passed with a Senate amendment which will allow entities which can demonstrate that they had adequate procedures in place to prevent foreign bribery to mount a defence. The measures will all take effect from six months of the date of assent.

Sections 26-52 and 26-53 of the ITAA 1997 deny a deduction for bribes made to Australian public officials and foreign public officials in order to obtain or retain any illegitimate business or business advantage (it is irrelevant whether any business or business advantage was actually obtained or retained). The amending Bill makes no changes to the intention of these provisions. However, it will update the definitions in s 26-52 to reflect the new terminology as well as the extended reach of the Criminal Code that will be enacted by the amending Bill.

## GST: supplies of combination food

[GST Determination GSTD 2024/1](#) explains when a food item is a "combination" food under s 38-3(1)(c) of the GST Act. That section provides that a supply of food is not GST-free if the food is of a kind specified in the third column of the table in clause 1 of Sch 1 (eg confectionery and cookies), or a combination of one or more foods, at least one of which is food of such a kind.

In *Chobani Pty Ltd and FCT [2023] AATA 1664*, the AAT found that the taxpayer's Flip Strawberry Shortcake flavoured yoghurt was a combination food for s 38-3(1)(c) purposes. Having regard to the AAT's decision, the ATO says that 3 principles apply in determining whether there is a supply of a combination food:

1. there must be at least one separately identifiable taxable food;
2. at the time of sale, this food must be sufficiently joined together with the other components of the overall product; and
3. this food must not be so integrated into the overall product, or be so insignificant within that product, that it has no effect on its characterisation.

**Date of effect:** retrospective. However, the ATO will continue to act in accordance with PS LA 2011/27 (Determining whether the ATO's views of the law should be applied prospectively only) and PS LA 2012/2(GA) (GST classification of food and beverage items).

GSTD 2024/1 finalises GSTD 2023/D1 and contains the same views as the draft.

## Addendum to Detailed Food List

The ATO also updated its Detailed Food List to incorporate GSTD 2024/1, include new product lines, merge similar entries and update other entries.

## Update from the ATO

The ATO provide the following update

### ATO Executive Committee

Rob Heferen was appointed as the 13th Commissioner of Taxation on 1 March 2024.

Read more about Commissioner Heferen and the ATO Executive Committee on our website.

### Step guide to resolving queries for registered tax and BAS agents

In collaboration with and with the support of the Communication Content Working Group we have developed A Step guide to resolving queries for registered tax and BAS agents.

It is intended to provide agents with guidance on the various channels available in resolving queries relating to the profession, practice, client and system issues.

We aim to make this available as a downloadable resource on [ato.gov](https://ato.gov).

### Taxpayers in focus for the medium public and multinational business engagement program

We've recently published information on our medium public and multinational engagement program. The aim of this program is to build community confidence that all public and multinational businesses are paying the right amount of tax.

Read more about key aspects of the program, including:

- who is covered
- our focus areas
- how we tailor our approach to taxpayers as part of the program
- what to expect if we contact clients of agents.

The work under this program forms part of the Tax Avoidance Taskforce objectives.

### **Rental property data matching**

The rental bond data matching protocol has recently been updated.

This data, together with third-party rental data from property managers, banks, landlord insurers and sharing economy providers gives us insight into the Australian rental market.

While many landlords remember to include regular rent received in their tax return, any bond money they retain is often missed.

If clients have forgotten to advise about any rent or bond money they have retained, agents should lodge an amendment as soon as possible.

Refer to our website for more information about the Rental bond data matching program or other data matching for rental properties.

### **Stapled super fund bulk request process continuing**

We've extended the bulk request process for stapled super fund details beyond March to give clients more time to arrange other options. We'll provide more updates during the year. Agents should encourage their clients to discuss software solutions with their software provider.

### **Upcoming ATO events for tax professionals**

#### *March open forum*

Our open forums offer a great opportunity for agents to ask questions and listen to our latest updates. Register for our first session on **Tuesday 12 March from 2:00 pm to 3:30 pm AEDT**. Topics include research and development, client-to-agent linking and updates for lodgment and support.

#### *Tax professionals conversations webcast*

Our webcasts are free, one-hour live events for the tax profession. The next webcast, Tax professionals conversations, is on **Tuesday 26 March from 2:00 pm to 3:00 pm AEDT**. We will discuss our current priorities and focuses, such as improving small business performance, fraud protection, and more.

Agents are encouraged to register to receive a calendar invite with a link to join the webcast.

Outlook calendars will adjust to the agent's local time for 2:00pm AEDT.

### Updates to guidance material

We encourage you and your colleagues to subscribe for the latest Tax professionals newsroom articles and other key updates.

#### *TR 2023/D3 Income tax: deductibility of self-education expenses incurred by an individual*

Our final Taxation Ruling on the deductibility of self-education expenses incurred by an individual has now been finalised.

The TR was published on 21 February 2024 and sets out the principles on the deductibility of self-education expenses under section 8-1 of the ITAA 1997. It also discusses the types of expenditure that can be deductible as a self-education expense, as well as those that cannot.

We thank everyone who provided feedback during the consultation period.

#### *Consultation on Draft MT 2024/D1 Miscellaneous tax: time limits for claiming an input tax or fuel tax credit*

A Draft Miscellaneous Taxation Ruling issued on Wednesday 21 February 2024.

The draft ruling sets out the Commissioner's view on:

- the four-year entitlement period for claiming input tax credits or fuel tax credits (tax credits)
- when and to what extent a tax credit is 'taken into account' in an assessment which preserves entitlement to tax credits
- when a taxpayer ceases to be entitled to tax credits under the four-year entitlement period, and the two exceptions to this period
- when an objection to an assessment may preserve a taxpayer's entitlement to tax credits
- the interaction between the four-year entitlement period and private ruling and amendment requests.

The draft ruling is open for consultation until **22 March 2024**.

#### *TR 2024/2 Income tax: when does a corporate limited partnership 'credit' an amount to a partner in that partnership?*

The finalised ruling issued on Wednesday 21 February 2024 and clarifies the circumstances when a corporate limited partnership credits an amount to one or more of its partners.'

## **FINANCIAL SERVICES**

### **CSLR start date and Chair of the Board of CSLR limited announced**

The Government has [announced](#) that from 2 April 2024, consumers will be able to lodge claims for compensation under the Compensation Scheme of Last Resort ("CSLR"). The CSLR is intended to provide compensation where the misconduct is by a financial services firm that was licensed to provide the relevant product or service.

The scheme will be operated by Compensation Scheme of Last Resort Limited ("CSLR Limited") with Ms Jo-Anne Bloch appointed as the independent Chair of the Board of CSLR Limited for an initial term of three years.

The CSLR will provide compensation of up to \$150,000 to eligible consumers who have an unpaid determination from the Australian Financial Complaints Authority ("AFCA") relating to the provision of personal financial advice, credit intermediation, securities dealing and credit provision.

The Government said that while more amendments to the CSLR legislation will take place "in due course", there has already been changes made to AFCA's authorisation so that, to the extent possible, complaints that may be eligible under the CSLR are progressed only if the financial services firm was licensed to provide the relevant product or service.

### **Financial services misconduct compensation scheme: instrument**

As an interim measure ahead of the commencement of the start of the financial services misconduct compensation scheme on 2 April 2024, ASIC has registered the [ASIC Corporations \(AFCA Regulatory Requirement\) Instrument 2024/60](#).

The Instrument allows the Australian Financial Complaints Authority ("AFCA") to amend the Australian Financial Complaints Authority Complaint Resolution Scheme Rules ("scheme rules") to include provisions consistent with s 9A(1), (2) and (3) of the AFCA Scheme Authorisation 2018 ("AFCA Authorisation"). The AFCA Authorisation contains conditions which:

- ensure that the financial services compensation scheme of last resort (CSLR) operator will provide compensation to consumers with unpaid AFCA determinations where the misconduct is by a financial services firm that was licensed to provide the relevant product or service stated in para 9A(1)(b) of the AFCA Authorisation;
- apply to complaints made but not decided before s 9A of the AFCA Authorisation commences (1 February 2024) and to complaints made after the section commences;
- require AFCA and the AFCA Decision Makers not to determine certain kinds of complaints (unless exceptional circumstances apply) as set out in s 9A of the AFCA Authorisation;
- require that where amendments to the scheme rules are needed as a result of s 9A of the AFCA Authorisation, the amendments will need to be applied from the date the section commences.



The Instrument will be repealed once the Government passes laws to amend the primary legislation to reflect a permanent measure to the operation of s 9A of the AFCA Authorisation, where the AFCA Scheme Amendment (2024 Measures No. 1) Authorisation 2024 will be expected to be repealed due to redundancy.

## **SUPERANNUATION**

### **Superannuation statistics for the December 2023 quarter released**

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

### **Estimate of illegal early access of super: ATO releases findings**

The ATO has [published](#) its estimates of illegal early access of superannuation from SMSFs before a condition of release has been met. It estimates that \$381 million of super has been illegally withdrawn by trustees in 2020 while in 2021, \$256 million of super has been illegally accessed. The ATO also found SMSFs entered into over \$200 million in prohibited loans in each of those years.

In a [speech](#) delivered by Deputy Commissioner Emma Rosenzweig to the SMSFA conference on 21 February 2024, the ATO's response is to ratchet up its provision of support and guidance products, undertake new registrant reviews, and remove SMSFs from superfund lookup where they fail to comply. The ATO also said that it has a number of investigations underway and will continue to work closely with other law enforcement agencies such as ASIC, the State and Federal Police and the Tax Practitioners Board to share intelligence and address inappropriate behaviours.

The ATO have guidance information on their website '[SMSF early engagement and voluntary disclosure service](#)'

There is also a ATO Fact sheet on '[Accessing your super early may be illegal](#)'

## **REGULATOR NEWS**

### **ASIC News**

ASIC has released the following updates in its Newsroom section:

- [1 March 2024 – MEDIA RELEASE – ASIC seeks orders to wind up Prospero Markets Pty Ltd](#) – ASIC has applied to the Federal Court of Australia to wind up Prospero Markets Pty Ltd, a company that issues OTC derivatives (ie financial contracts that are not traded on asset exchanges). Prospero's Australian Financial Services Licence was suspended in December 2023 after it failed to lodge audited accounts. Some of its



former officers and managers have been charged with money laundering offences.

- [1 March 2024 – NEWS ITEM – ASIC approves prescribed form for life insurance memorandums of transfer](#) – ASIC has been empowered to give written approval to the form that life insurance memorandums of transfer should take. Schedule 4 of the Life Insurance Regulations 1995 (Cth) will now include a prescribed form for use from 1 March 2024.
- [29 February 2024 – MEDIA RELEASE – ASIC successfully appeals ACBF and Youpla misrepresentations case](#) – The Full Court of the Federal Court of Australia has upheld ASIC's appeal against the primary decision in its case against ACBF Funeral Plans Pty Ltd and Youpla Group Pty Ltd, finding that funeral expenses insurance provider ACBF had misrepresented to Aboriginal consumers that it was Aboriginal-owned or managed when that was not the case. ASIC filed proceedings in 2020 alleging four sets of misrepresentations and has now succeeded in two of the matters. The [judgment](#) of Murphy, O'Bryan and Shariff JJ is also available.
- [29 February 2024 – MEDIA RELEASE – ASIC issues Urban Rampage with interim stop order over concerns of financial harm to First Nations consumers](#) – ASIC has issued stop orders against Coral Coast Distributors (Cairns) Pty Ltd, the operators of Urban Rampage retail outlets, from entering into agreements with customers to pay for goods on credit with deductions from Centrelink income. The majority of Urban Rampage customers are low-income recipients of Centrelink benefits in remote areas without access to other forms of credit. ASIC was concerned that the credit arrangement being offered did not meet the market's needs.
- [29 February 2024 – MEDIA RELEASE – ASIC obtains bankruptcy orders against social media influencer Tyson Scholz](#) – ASIC's application to the Federal Court of Australia to obtain order to sequester the assets of Tyson Robert Scholz has been successful. The former social media influencer who operated under the name "ASX Wolf" is now effectively bankrupt, as well as being permanently banned from conducting a financial services business in Australia. The [Federal Court](#) had previously found that he had breached s 911A of the Corporations Act 2001 (Cth) by conducting a financial services business while not having a licence to do so.
- [28 February 2024 – MEDIA RELEASE – ASIC secures interim travel restraint orders against former Blockchain Global director](#) – In the Federal Court of Australia, Button J granted ASIC's application for an interim injunction under s 1323 of the Corporations Act 2001 (Cth) to prevent Liang Guo from leaving Australia until 20 August 2024, while an investigation continues. Blockchain Global had operated a crypto-asset exchange that collapsed. The orders and judgment in [ASIC v Guo \[2024\] FCA 125](#) are also available.
- [28 February 2024 – MEDIA RELEASE – ASIC issues infringement notice to Melbourne Securities for greenwashing](#) – Melbourne Securities Ltd has paid a fine of \$13,320 after ASIC issued it with an infringement notice for making misleading statements about its Bloom Climate Impact Fund. ASIC considered that the fund derived a higher revenue from fossil fuels than could be expected from sustainability-related or ethical products and investments. In effect, ASIC alleged that it had engaged in a form of "greenwashing" and follows on from similar actions taken against other entities in 2022 and 2023.
- [27 February 2024 – MEDIA RELEASE – ASIC cancels AFS licence of NextGen Financial Group Pty Ltd](#) – The AFS Licence of NextGen Financial Group was cancelled after the Federal Court ordered that the company be wound up in insolvency in November 2023. However, NextGen may still continue to service clients under existing arrangements that it had immediately before the cancellation.

## APRA news

APRA has released the following updates in its News and publications section:

- [28 February 2024 – MEDIA RELEASES – APRA releases quarterly private health insurance statistics for December 2023](#) – APRA’s quarterly private health insurance publication for the December 2023 quarter covers statistics on membership, coverage, benefits paid, medical gap, prostheses and medical services.
- [27 February 2024 – MEDIA RELEASES – APRA releases superannuation statistics for December 2023](#) – APRA has released its Quarterly Superannuation Performance and Quarterly MySuper Statistics for the December 2023 quarter. During 2023, total superannuation assets in Australia grew by 10 per cent and APRA-regulated assets increased by 11.6 per cent.