

TAXATION

Individual income tax rates and threshold changes – 1 July 2024

On 25 January 2024, the government announced changes to Individual income tax rates and thresholds from 1 July 2024. These changes are now law.

Private companies and Division 7A – ATO webinar covering common mistakes

The ATO have advised that the recording of their recent 'Private companies & Division 7A' [webinar](#) hosted by Assistant Commissioners Kasey Macfarlane and Anthony Marvello, is now available.

ATO Update

The ATO have provided an update on 'Supporting advisers who set the standard for tax and super integrity; Division 7A webinar; and updates to guidance material'.

ATO DIS on Bowerman: loss on sale of residential unit was deductible

The ATO has issued a Decision Impact Statement on Bowerman and FCT [2023] AATA 3547.

Australia's tax treaty expansion: Treasury consultation

Treasury is seeking submissions on outcomes Australia should seek in negotiating tax treaties with various countries as part of Australia's expansion of its tax treaty network.

Requirement to lodge 2024 tax and other returns

The ATO has issued two draft instruments in relation to the requirement to lodge tax returns.

Board of Taxation 2022-23 Annual Report released

The Board of Taxation has issued its 2022-23 annual report highlighting its activities during the year.

Hybrid mismatch rules: liable entities and hybrid payers

TD 2024/D1 has been released by the ATO and addresses issues concerning the definitions of "hybrid payer" and "liable entity" in the hybrid mismatch rules.

FINANCIAL SERVICES

Better co-ordinated financial sector regulation

The Treasurer announced the Government will introduce a "financial sector regulatory initiatives grid", updated twice a year.

ASIC and APRA release a cross-industry information package

ASIC and APRA have announced the publication of new information to help banks, insurers and superannuation trustees prepare for the commencement of FAR.

IDR data reporting requirements: ASIC update

ASIC has issued a media release which states that 87% of financial firms successfully submitted an internal dispute resolution ("IDR") report to ASIC.

SUPERANNUATION

Aged Care Task Force: specific tax or levy not recommended

The Final report of the Aged Care Taskforce has been released, stating that a specific tax or levy to fund aged care is not recommended.

ASIC acts against 15 SMSF auditors performing in-house audits

ASIC has imposed conditions on the registration of 13 SMSF auditors and accepted voluntary cancellations of two SMSF auditors.

Proposed 15% Div 296 tax: draft regulations

The Government has released the draft instrument to implement the proposed 15% Div 296 tax.

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.

TAXATION

Individual income tax rates and threshold changes – 1 July 2024

‘From 1 July 2024, the proposed tax cuts will:

- reduce the 19 per cent tax rate to 16 per cent
- reduce the 32.5 per cent tax rate to 30 per cent
- increase the threshold above which the 37 per cent tax rate applies from \$120,000 to \$135,000
- increase the threshold above which the 45 per cent tax rate applies from \$180,000 to \$190,000.

For more information see: [Treasury Laws Amendment \(Cost of Living Tax Cuts\) Act 2024](#) (Act No. 3 of 2024)’

Private companies and Division 7A – ATO webinar covering common mistakes

The ATO have further advised that ‘the webinar discusses the common Division 7A mistakes we’re seeing and how they can be avoided.

[Private Companies and Division 7A Webinar Slides](#)

ATO Update

The ATO have provided updates on:

‘Supporting advisers who set the standard for tax and super integrity

Division 7A webinar

Updates to guidance material

Release of draft legislative instruments setting out the requirements to lodge income tax returns for the 2023/24 income year

Lodge and pay - social media campaign

Supporting advisers who set the standard for tax and super integrity

When it comes to tax and super, clients take the lead from the advisers they trust.

Our newsroom [article](#) highlights the importance of ensuring advisers are set up to be compliant with their tax and super obligations. Our analysis of some professional firms within the privately owned and wealthy group population reveals that partners’ lodgment compliance is lower than we’d expect. We’ve also seen examples of professional firms’ partner distributions reported incorrectly or omitted.

Read the full article to see current private group behaviours we’re focused on as part of our

Tax Avoidance Taskforce Adviser Strategy.

We encourage you to share the information with your members and networks so they're aware of what we're seeing and can make sure they've got their own affairs in order.

Updates to guidance material

The following updates have been featured in recent editions of the *Tax professionals newsletters*. We encourage you and your colleagues to [subscribe](#) for the latest [Tax professionals newsroom](#) articles and other key updates.

Release of draft legislative instruments setting out the requirements to lodge income tax returns for the 2023/24 income year

The Commissioner has released draft legislative instruments setting out the requirements to lodge income tax returns for the 2023/24 income year as follow:

Taxation Laws (Requirement to Lodge a Return for the 2024 year) Instrument 2024 ([LJ 2024/D2](#)), and

Income Tax Assessment (Requirement for Parents with a Child Support Assessment to Lodge a Return for the 2024 Year) Instrument 2024 ([LI 2024/D3](#)).

Draft legislative instrument LI 2024/D2 sets out the persons who are required, or exempt, from lodging an income tax return for the 2023/24 income year and the date by which it must be lodged. It also provides details on other lodgment requirements for:

- franking account returns, including special rules for late balancing corporate tax entities
- venture capital deficit tax returns
- not-for-profit (NFP) self-review returns
- ancillary fund returns, and
- trustees of self-managed superannuation funds (SMSFs).

Draft legislative instrument LI 2024/D3 requires liable and recipient parents under a child support assessment to lodge an income tax return for the 2023/24 income year by the due date specified. Such persons may not otherwise be required to lodge an income tax return. The return must be in the approved form.

The format, structure and language of the instruments have been updated in 2024 to align with contemporary legislative drafting styles and make it easier to navigate. The update is not intended to change the general effect of the instruments. That is, the same classes of persons that have been required to lodge a return in previous income years are also required to lodge a return this year, although there is also a new requirement for certain entities to lodge a NFP self-review return.

Consultation on the two draft legislative instruments and explanatory statements is open for comment until **9 April 2024**. Instructions on how to provide us your feedback is noted on [ATO Open Consultation](#).

If you have any questions about this consultation, please contact Victoria Rogers (Policy

Analyst, Operational Policy, Assurance and Law) at
OperationalPolicyAssuranceandLawWorkManagement@ato.gov.au.

Lodge and pay - social media campaign

We are undertaking a proactive social media campaign in the lead up to the April to June quarterly BAS period.

Our first 'Good habits' social media post went live on Tuesday 5 March on [Facebook](#) and [LinkedIn](#).

This is the first post in a series to be published over the next 4 weeks. The aim of the posts is to educate small business on how to establish good cash flow management habits so they can pay in full and on time. ‘

ATO DIS on Bowerman: loss on sale of residential unit was deductible

The ATO has issued a [Decision Impact Statement](#) on Bowerman and FCT [2023] AATA 3547. In that case, that AAT found that a loss incurred by an individual on the sale of her home was deductible because she acquired the property for the purpose of making a profit in a commercial manner. While the AAT accepted that one of the reasons for acquiring the property was to live in it, this was considered to be secondary to her more significant profit-making purpose.

The Commissioner chose not to appeal this decision. In its Decision Impact Statement, the ATO highlighted the Tribunal's observation that the result in this case was "unusual". The ATO said the decision was "finely balanced" and an "available application" of the established Myer Emporium principles. However, in the ATO's view, the unusual factual findings "will limit the application of the AAT's decision in future cases".

The ATO said it would not be changing how it applies the CGT main residence exemption where the Myer Emporium principles do not apply.

Comments on the DIS are due by 12 April 2024.

Australia's tax treaty expansion: Treasury consultation

Treasury is [seeking](#) submissions on outcomes Australia should seek in negotiating tax treaties with Brazil, New Zealand, South Korea, Sweden and Ukraine as part of Australia's expansion of its tax treaty network. This expansion was announced in December 2023. Ukraine and Brazil will be first tax treaties, while the other countries are updates of existing treaties.

Submissions are due by 19 April 2024.

Requirement to lodge 2024 tax and other returns

The ATO has issued two requirement to lodge draft instruments as follows:

- Taxation Laws (Requirement to Lodge a Return for the 2024 Year) Instrument 2024 ([LI 2024/D2](#)) - covers income tax returns and other lodgments for: (i) franking account returns, including special rules for late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability; (ii) venture capital deficit tax returns; (iii) ancillary fund returns; (iv) trustees of SMSFs; (v) member information statements by superannuation providers. The draft also covers use of approved forms for lodgment, lodgment deferrals, lodgment exemptions, and penalties for non-lodgment.
- Income Tax Assessment (Requirement for Parents with a Child Support Assessment to Lodge a Return for the 2024 Year) Instrument 2024 ([LI 2024/D3](#)) - requires liable and recipient parents under a child support assessment to lodge an income tax return for the income year, by the due date specified in the instrument. Such persons may not otherwise be required to lodge an income tax return.

Comments for both are due by 9 April 2024.

Board of Taxation 2022-23 Annual Report released

The Board of Taxation ("BoT") has issued its [2022-23 annual report](#). The report lays out its activities during the year.

Hybrid mismatch rules: liable entities and hybrid payers

[Draft Determination TD 2024/D1](#) has been released by the ATO and addresses two issues concerning the definitions of "hybrid payer" and "liable entity" in the hybrid mismatch rules in Div 832 of the ITAA 1997.

First, the Draft states that the identification of one or more "liable entities" in a country in respect of income or profits can be based wholly on hypothetical income or profits within the tax base of the country. This will be necessary where no income or profits have been derived in a particular period or, if they have, no part of the income or profits is within that country's tax base.

Secondly, for the purposes of the "hybrid payer" definition, the Draft says that a "non-including country" (referred to in the definition) can be a jurisdiction other than the country where the payee is located or resides. This means that the laws of another jurisdiction may fall for consideration in determining whether there is a hybrid payer.

The Draft includes three examples.

Proposed date of effect: retrospective.

Comments are due by 19 April 2024.

FINANCIAL SERVICES

Better co-ordinated financial sector regulation

The Treasurer [announced](#) the Government will introduce a "financial sector regulatory initiatives grid" which will be a rolling, 24 month forward program of financial sector regulatory initiatives, updated twice a year.

A regulatory grid "will help financial services businesses engage with the Government and regulators more effectively and allow regulators to avoid duplication, build shared strategic priorities, and focus on how to best implement reforms". The grid will be administered by Treasury and include proposed legislation, rule, and regulation, among other initiatives, of the major financial sector agencies including ASIC, APRA, the ACCC, the RBA and the ATO.

Treasury will engage with financial sector stakeholders in the development of the grid.

ASIC and APRA release a cross-industry information package

ASIC and APRA have [announced](#) the publication of new information to help banks, insurers and superannuation trustees prepare for the commencement of the Financial Accountability Regime ("FAR").

The new information includes:

- an [Information package](#) for all APRA regulated entities; and
- a [Consultation package](#) relevant to insurance and superannuation entities.

Comments due by 19 April 2024.

IDR data reporting requirements: ASIC update

ASIC has issued a [media release](#) which states that 87% of financial firms successfully submitted an internal dispute resolution ("IDR") report to ASIC between 1 January and 14 March 2024.

A new IDR data reporting framework was established by the Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Act 2018 and the ASIC Corporations (Internal Dispute Resolution Data Reporting) Instrument 2022/205. Overall over 8,600 financial firms are due to report IDR data to ASIC for the first time.

ASIC states that it will be analysing the data "to inform our approach to publication" and that it will communicate this approach in advance of actual publication. It also reminds firms of the need to meet this reporting requirement twice per year.

SUPERANNUATION

Aged Care Task Force: specific tax or levy not recommended

The [Final report of the Aged Care Taskforce](#) has been released. Importantly for tax practitioners, Recommendation two of the Final Report states that a "specific tax or levy to fund aged care is not recommended". However, there are hints in the same recommendation that superannuation may be relied on to contribute to some of these costs in the future.

ASIC acts against 15 SMSF auditors performing in-house audits

ASIC has [imposed](#) conditions on the registration of 13 SMSF auditors and accepted voluntary cancellations of two SMSF auditors.

ASIC had concerns that financial statements for SMSF clients were prepared by the same firm that also conducted the SMSF audit, in breach of the SMSF auditor's independence requirements set out in [APES 110 Code of Ethics for Professional Accountants](#).

Proposed 15% Div 296 tax: draft regulations

The Government has released the draft [Treasury Laws Amendment \(Measures for Future Instruments\) Instrument 2023: Better Targeted Superannuation Concessions](#).

They relate to the implementation of the proposed 15% Div 296 tax. The draft regulations contain provisions that enable the calculation of the proposed tax for defined benefit interests and to deliver commensurate treatment under the measure, when compared to other types of superannuation interests.

The proposed Div 296 tax will apply from the 2025-26 income year onwards to individuals with a total superannuation balance ("TSB") exceeding \$3 million at the end of an income year. The proposed tax will apply to the percentage of "taxable superannuation earnings" corresponding to the portion of their TSB that is above \$3 million.

The proposed changes were announced in the 2023-24 Budget and introduced to Parliament in the following Bills (and still before it):

- [Treasury Laws Amendment \(Better Targeted Superannuation Concessions and Other Measures\) Bill 2023](#); and
- [Superannuation \(Better Targeted Superannuation Concessions\) Imposition Bill 2023](#).

Comments due by 26 April 2024.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [15 March 2024 – NEWS ITEM – ASIC update on internal dispute resolution data collection for new reporting requirements](#) – New data reporting requirements for the finance industry require participants to supply data to ASIC on internal dispute resolution. A solid majority of participants complied. The information that ASIC gleans will help it tailor its regulatory decision-making and enhance firms' dispute resolution practices.
- [15 March 2024 – MEDIA RELEASE – ASIC cancels AFS licence of Suetonius Wealth Management Pty Ltd](#) – On 11 March 2024, ASIC cancelled the AFS licence of Suetonius Wealth Management Pty Ltd because of its failure to lodge financial statements and audit reports for three consecutive financial years. The licence had previously been suspended to enable Suetonius to lodge overdue statements. However, none were forthcoming.
- [14 March 2024 – MEDIA RELEASE – Federal Court finds Finder Earn product was not a financial product](#) – Markovic J in the Federal Court has found that the digital currency exchange Finder Earn, offered by Finder Wallet Pty Ltd, is not a financial product. ASIC had argued that it was a debenture as defined in s 9 of the *Corporations Act 2001* (Cth) and subject to financial services laws. The judgment is [available](#).
- [14 March 2024 – MEDIA RELEASE – ASIC and APRA release a cross-industry information package on the Financial Accountability Regime](#) – ASIC and APRA have jointly published information to help banks, insurers and superannuation trustees to prepare for the Financial Accountability Regime which starts on 15 March 2024 for banks and 15 March 2025 for the insurance and superannuation sector.
- [14 March 2024 – MEDIA RELEASE – ASIC acts against 15 SMSF auditors performing in-house audits](#) – ASIC and the Australian Taxation Office both regulate auditors of SMSFs. The ATO referred 15 auditors that did both auditing and accounting work for SMSFs to ASIC because of concerns about their independence. As a result, ASIC imposed conditions on the registration of 13 SMSF auditors and accepted voluntary cancellations of licences from two others.
- [8 March 2024 – MEDIA RELEASE – Members' voluntary liquidator sentenced for dishonestly using his position to withdraw company funds](#) – Ronald Lester Cardwell of Cherrybrook, NSW has been convicted and sentenced to 24 months' imprisonment for dishonestly using his position as liquidator following an ASIC investigation. In a 10-month period spanning 2015 and 2016, he withdrew over \$150,000 from the bank account of the liquidated company Loch-Co No 6 Pty Ltd for his own financial advantage, and failed to comply with an ASIC notice to produce books and records.

APRA news

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

- [15 March 2024 – NEWS AND PUBLICATIONS – APRA releases information paper on credit risk capital requirements for housing loans](#) – APRA has issued an information paper explaining the mechanism of capital adequacy rules for housing loans. The key questions relate to the adequacy of capital requirements to guard against losses over the market cycle and the appropriateness of the differences between rating-based and standard capital requirements, and the impact on competition in the banking sector.
- [14 March 2024 – MEDIA RELEASE – ASIC and APRA release a cross-industry information package on the Financial Accountability Regime](#) – ASIC and APRA have jointly published information to help banks, insurers and superannuation trustees to

prepare for the Financial Accountability Regime which starts on 15 March 2024 for banks and 15 March 2025 for the insurance and superannuation sector. APRA is also consulting on proposed amendments to Regulator rules and key function descriptions for insurers and superannuation entities. Submissions are open until 19 April 2024.

- [13 March 2024 – MEDIA RELEASES – APRA removes National Australia Bank's operational risk capital add-on](#) – APRA has removed the \$500 million capital add-on it imposed on the National Australia Bank arising from the bank's own risk management assessment in 2019. The identified risks were non-financial and culture-related. The self-assessment arose as a consequence of APRA's prudential inquiry about the Commonwealth Bank. APRA now considers that NAB has dealt with the risk management issues identified.
- [12 March 2024 – MEDIA RELEASES – APRA releases quarterly authorised deposit-taking institution statistics for December 2023](#) – APRA has released its Quarterly [Authorised Deposit-taking Institution](#) Statistics for the December 2023 quarter. Profits for regulated institutions declined by 2.8% over the 2023 calendar year but are still historically high. Credit also continued to grow. There is a small but growing sector of stressed borrowers, measured by loans 30-89 days past due and non-performing loans.