

TAXATION

ATO debt recovery: Ombudsmans' joint report

The Commonwealth Ombudsman/ACT Ombudsman and IGTO have jointly published an advice promoted by ATO's re-activating old debts.

IGoT News! - March 2024 special edition released

The Inspector-General of Taxation has released a special March 2024 edition of its Newsletter IGot News!.

FBT: cents per kilometre rates for 2024-25 - vehicles other than cars

The cents per kilometre rates for calculating the taxable value of a fringe benefit arising in the 2024-25 FBT year from the private use of a motor vehicle has been released.

FBT: LAFHA - reasonable amounts for meals for 2024-25 FBT year

The ATO released the weekly amounts it considers reasonable for food and drink expenses incurred by employees receiving a LAFHA for the 2024-25 FBT year.

Thin cap Bill passed by Parliament: Senate amendments; no change to start date

The Bill has been passed by both Houses of Parliament and awaits assent.

Small Business and Charities Bill passed by Senate: one amendment to be considered

The Bill was passed by the Senate with one amendment and will be returned to the House of Representatives for consideration when Parliament resumes in May.

GST

GST: food of a kind marketed as a prepared meal

Draft GST Determination GSTD 2024/D1 sets out the ATO's preliminary views on when a supply of food is not GST-free.

FINANCIAL SERVICES

TLA (Delivering Better Financial Outcomes) Bill introduced

The Government has introduced the Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 into Parliament.

Climate-related financial disclosure: Bill introduced

The Government has introduced the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024.

SUPERANNUATION

APRA to publish more detailed super fund expense and investment data

APRA has announced it will commence publishing more detailed data on how members' funds are being spent and invested by trustees.

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.

OTHER TOPICS

Proposed legislative amendments

The Government has introduced several Bills that propose to amend corporations laws.

TAXATION

ATO debt recovery: Ombudsmans' joint report

The Inspector-General of Taxation has issued a [media release](#) advising that, prompted by the ATO re-activating or off-setting "very old debts", the Commonwealth Ombudsman, ACT

Ombudsman and Inspector-General of Taxation and Taxation Ombudsman have jointly published an advice entitled [How to tell people they owe the government money – Best practice principles for notifying people about debts](#).

- Be transparent and accountable
- Tell people what the debt is and where it comes from
- Provide clear information for requesting review, debt waivers and repayment arrangements
- Provide contacts for people to find out more information
- Learn and improve.

IGoT News! - March 2024 special edition released

The Inspector-General of Taxation has released a [special March 2024 edition](#) of its Newsletter IGot News!.

The IGTO said the special edition was intended to inform the community that it has updated its webpage to provide some useful links and information about where and how taxpayers can seek assistance if they are concerned and/or confused about their tax debts. The information available on the webpage is as follows:

- The Best Practice Principles - How to tell people they owe the Government money
- What to do if you are experiencing serious hardship
- What are your options if the ATO is going to report you to a Credit Reporting Bureau
- What directors can do if they need more information to explain their Director Penalty Notice (DPN)
- Who is eligible and how to set up a payment arrangement
- Where taxpayers and advisers can get assistance and further information about their tax debts.

The IGTO also advises taxpayers who are approached by other government agencies about monies owed to the government should, in the first instance, speak with those agencies to understand the quantum, source and calculation of those debts. Many agencies have complaints units that taxpayers can lodge a complaint if they are dissatisfied with how those agencies have responded to the taxpayers' queries for further information about their debt.

FBT: cents per kilometre rates for 2024-25 - vehicles other than cars

The cents per kilometre rates for calculating the taxable value of a fringe benefit arising in the 2024-25 FBT year from the private use of a motor vehicle (other than a car) are:

- vehicles with an engine capacity of up to 2,500cc - 66 cents/km;
- vehicles with an engine capacity of over 2,500cc - 77 cents/km; and
- motorcycles - 19 cents/km.

Date of effect: 1 April 2024.

FBT: LAFHA - reasonable amounts for meals for 2024-25 FBT year

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 2024-25 FBT year (ie starting 1 April 2024).

For locations within Australia, the reasonable weekly amounts are: 1 adult - \$331; 2 adults - \$497; 3 adults - \$663; 1 adult and 1 child - \$414; 2 adults and 1 child - \$580; 2 adults and 2 children - \$663; 2 adults and 3 children - \$746; 3 adults and 1 child - \$746; 3 adults and 2 children - \$829; and 4 adults - \$829.

An "adult" for this purpose is a person who is aged 12 years or more at 31 March 2024.

For larger family groupings, \$166 is added for each additional adult, while \$83 is added for each additional child under 12.

Date of effect: 1 April 2024.

Thin cap Bill passed by Parliament: Senate amendments; no change to start date

The [Treasury Laws Amendment \(Making Multinationals Pay Their Fair Share – Integrity and Transparency\) Bill 2023](#) has been passed by both Houses of Parliament and awaits assent.

The Senate made some amendments which had been recommended by the Senate Economics Legislation Committee (discussed below). The Senate amendments (to which the House agreed and made no changes) relate to the following matters:

- choices under Subdiv 820-AA;
- the meaning of "obligor group";
- the meaning of "tax EBITDA";
- the third party debt test; and
- the debt deduction creation rules.

Note, though, that one (unannounced) amendment requires that there is a review of the legislation no later than 1 February 2026 (as proposed by David Pocock).

Importantly, broadly speaking there was no change to the start date, ie the significant changes will continue to have a start date of 1 July 2023 (but the start date for the debt deduction creation rules is 1 July 2024).

Small Business and Charities Bill passed by Senate: one amendment to be considered

The [Treasury Laws Amendment \(Support for Small Business and Charities and Other Measures\) Bill 2023](#) was passed by the Senate on 27 March 2023, with one amendment.

This means that the Bill will be returned to the House of Reps for consideration when Parliament resumes on 14 May 2024.

The Senate amendment relates to the instant asset write off threshold, ie the threshold below which amounts can be immediately deducted under the simplified depreciation rules. As originally introduced, the Bill would increase the instant asset write off threshold from \$1,000 to \$20,000 for small businesses (ie those with an aggregated annual turnover of less than \$10 million).

The Senate amendment is two-fold, ie it would:

- extend the coverage from small businesses to include medium businesses, ie all entities with an aggregated turnover of less than \$50 million would be eligible; and
- increase the threshold from \$20,000 to \$30,000.

There is no change proposed to the date of effect, ie the increased threshold applies to the cost of eligible depreciating assets, eligible amounts included in the second element of the cost of a depreciating asset, and general small business pools, from 1 July 2023 to 30 June 2024.

GST

GST: food of a kind marketed as a prepared meal

[Draft GST Determination GSTD 2024/D1](#) sets out the ATO's preliminary views on when a supply of food is not GST-free because it is the supply of food of a kind "marketed as a prepared meal".

In *Simplot Australia Pty Ltd v FCT* [2023] FCA 1115, the Federal Court held that various frozen products (the taxpayer's Birds Eye SteamFresh and VeggieRice ranges) were food of a kind marketed as prepared meals. In accordance with this decision, the ATO says that the statutory question is not whether the product itself is marketed as a prepared meal but whether it is food of a kind that is marketed as a prepared meal. Adopting the words of Hesse J in *Simplot*, GSTD 2024/D1 states that a product will be food of a kind marketed as a prepared meal if it is the kind of food that, as a matter of common sense and common experience, is marketed as a prepared meal. This is determined objectively by considering the attributes of the food, including quantity, composition and presentation.

The ATO says that in determining whether a product is of a relevant kind, it does not matter whether it may also be of some other kind. In *Simplot*, the fact that the products could be described as food marketed as a meal component or side dish did not mean they could not also be food of a kind that is marketed as a prepared meal. Nevertheless, the ATO notes that in practice, many meal components will not possess the necessary attributes that would make them food of a kind marketed as a prepared meal.

Proposed 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).

The ATO plans to amend its Detailed Food List and has identified three entries where there will be a change of view (prepared products and vegetarian meals that require assembling before consumption, and uncooked chicken wraps). The ATO says the updates will make it clear that products requiring only limited further assembly and cooking activity can qualify as food of a kind marketed as a prepared meal. The GST Industry Issue Food Industry Partnership Prepared food (Issue 5 Prepared Food) will also be withdrawn.

Comments on Draft GSTD 2024/D1 are due by 26 April 2024.

FINANCIAL SERVICES

TLA (Delivering Better Financial Outcomes) Bill introduced

The Government has introduced the [Treasury Laws Amendment \(Delivering Better Financial Outcomes and Other Measures\) Bill 2024](#) into Parliament.

The 90 page Bill/144 page EM may be described as an omnibus Bill, containing a range of previously announced measures, as follows.

- **Quality of Advice Review amendments:** Sch 1 makes various amendments to the Corporations Act and the SIS Act (and other Acts) to deliver what is termed "tranche 1" of the Government's response to the Quality of Advice Review. Specifically, it will implement recommendations 7, 8, 10, 13.1 to 13.5 and 13.7 to 13.9. This includes amendments relating to: (i) the deductibility of adviser fees; (ii) ongoing fee arrangements; (iii) flexibility for Financial Services Guide requirements; (iv) conflicted remuneration; and (v) consent requirements for insurance commissions.
- **PRRT:** Sch 2 updates the Petroleum Resource Rent Tax legislation (the "PRRTA Act") to bring its anti-avoidance provisions in line with Pt IVA of the ITAA 1936.
- **Mining, quarrying or prospecting rights:** Sch 3 amends the PRRTA Act to clarify the meaning of "exploration for petroleum". Additionally, amendments to the ITAA 1997 clarify: (i) that MQPRs cannot be depreciated for income tax purposes until they are used, not merely held, and (ii) the circumstances in which the issue of new rights over areas covered by existing rights lead to income tax adjustments.
- **Miscellaneous and technical amendments:** Sch 5 makes a number of what are termed minor and technical amendments to various pieces of legislation.
- **Location offset and producer offset:** Sch 6 makes changes that impact the film industry. This includes: (i) amending the location tax offset provisions in Div 376 of ITAA 1997 to increase the tax offset amount from 16.5% to 30%; and (ii) raising the minimum qualifying Australian production expenditure thresholds from \$15 million to \$20 million and the per hours threshold from \$1 million to \$1.5 million.

Climate-related financial disclosure: Bill introduced

The Government has introduced the [Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#). The Bill will implement standardised, internationally aligned requirements for mandatory disclosure of climate-related risks and opportunities in Australia. The amendments set out new climate-related financial reporting requirements for entities, leveraging the existing financial reporting regime under Chapter 2M

of the Corporations Act. Chapter 2M provides for record-keeping, financial reports and audit. Part 2M.3 covers financial reporting including who must prepare annual financial reports and the contents of those annual financial reports.

The climate statements are to be prepared in line with the relevant sustainability standards issued by the AASB.

Large entities that are required to prepare and lodge annual reports under Chapter 2M will be required to disclose information about climate-related risks and opportunities. This includes listed and unlisted companies and financial institutions as well as registrable superannuation entities and registered investment schemes. Large entities are defined using size thresholds equivalent to the existing Large Proprietary Company definition (this threshold will apply to both listed and unlisted companies).

The Treasurer [states](#) that reporting requirements will commence on 1 January 2025, although there are transitional provisions, categorising entities into three groups over a four-year period (depending on size).

The other important measure in the Bill concerns the power of the Reserve Bank to respond more quickly to crises impacting critical financial market infrastructure and strengthens the RBA and ASIC's regulatory powers.

SUPERANNUATION

APRA to publish more detailed super fund expense and investment data

APRA has [announced](#) it will commence publishing more detailed data on how members' funds are being spent and invested by trustees, from August 2024.

The new data will include more granular, fund-specific expenditure, related to director remuneration, marketing, travel and entertainment, and payments to industrial bodies and related parties.

Investment details will also be published on the super fund industry's holdings of property, infrastructure, alternative strategy funds, listed equity and private equity.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [28 March 2024 – MEDIA RELEASE – ASIC wins first greenwashing civil penalty action against Vanguard](#) – In the Federal Court, O'Bryan J has found that Vanguard Investments Australia Ltd made misleading and deceptive claims about the environmental, social and governance screens in investments in its index fund. Vanguard had claimed in product disclosure statements, a media release and other statements that the funds excluded activities from a range of industries, but admitted

that many securities in the index had not been researched to verify conformity against the relevant criteria. Penalties are yet to be determined. The judgment is also [available](#).

- [28 March 2024 – MEDIA RELEASE – ASIC cancels AFS licence of Crown Wealth Group](#) – A voluntary administrator was appointed to Crown Wealth Group Pty Ltd on 13 March 2024. As a result, ASIC has cancelled Crown Wealth's AFS licence as it is empowered to do under the *Corporations Act 2001* (Cth) where a licensee has entered administration or is being wound up. Crown Wealth had provided advice to retail and wholesale clients about superannuation, securities, managed investments, deposits and payment products.
- [27 March 2024 – NEWS ITEM – ASIC extends and amends parent entity financial statement and auditor independence instruments](#) – ASIC has extended the operation of certain legislative instruments for another five years following consultations. Submissions in response were supportive. Registrable superannuation entities will now be treated the same as other statutory clients.
- [27 March 2024 – MEDIA RELEASE – Cameron Waugh sentenced to two years imprisonment for insider trading](#) – In the Supreme Court of Western Australia, Cameron Kerr Waugh was sentenced for insider trading offences during 2021, contrary to s 1043A of the *Corporations Act 2001* (Cth). He used information that was not public as part of his role with Omnia Company Ltd in order to sell shares at a profit. Mr Waugh is automatically disqualified from managing corporations for five years.
- [27 March 2024 – NEWS ITEM – ASIC remakes five 'sunsetting' class orders for managed funds](#) – ASIC has remade five class orders for managed funds that were due to sunset on 1 April 2024. This is as a result of feedback to a consultation that ASIC conducted on its proposal to remake the class orders with minor changes. Submissions in response were broadly supportive.
- [25 March 2024 – MEDIA RELEASE – ASIC brings first action against a director for failing to have a director identification number](#) – ASIC has commenced the first prosecution of a director for failing to comply with the obligation to have a director identification number under s 1272C of the *Corporations Act 2001* (Cth). The matter is being heard in the Downing Centre Local Court. The defendant faces a fine of up to \$13,320. An interim non-publication order is in place to prevent identification of the defendant until at least 16 April 2024.
- [22 March 2024 – MEDIA RELEASE – ASIC secures travel restraint orders against Mansa Group directors](#) – ASIC has secured orders in the Federal Court restraining Krishnakumar Sitaram Agrawal and Shashikumari Krishnakumar Agrawal from travelling outside Australia until 31 August 2024, or until another order is made. They had been the directors of the Mansa Group of companies, a property development group, many of which went into administration or were liquidated in 2023.
- [22 March 2024 – MEDIA RELEASE – Federal Court finds Auto & General Insurance Company did not include and unfair term in its insurance contracts](#) – Jackman J in the Federal Court of Australia has found that a term in an insurance policy requiring policyholder to notify Auto & General of any changes to their home and contents is not unfair under the *Australian Securities and Investments Commission Act 2001* (Cth). ASIC had pursued the matter as part of its focus on consumer protection regarding unfair contracts and is considering the judgment, The [judgment](#) is also available.
- [22 March 2024 – NEWS ITEM – ASIC reaffirms ongoing registration obligation for financial advisers](#) – Since the start of the requirement for financial advisers to register, most have done so. However, the requirement is ongoing. It is up to AFS licensees to ensure their relevant providers have been appropriately registered.

APRA news

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

- [27 March 2024 – MEDIA RELEASE – APRA to publish super fund expense data](#) – APRA will act on feedback received as part of a consultation it conducted in 2023 on the transparency of its publication of data. Starting in August 2024, it will publish information about how members' superannuation funds are spent and invested by trustees.
- [27 March 2024 – NEWS ITEM – APRA releases intermediated general insurance coverage statistics for December 2023](#) – APRA has issued biannual insurance statistics for the six months ending 31 December 2023. This publication summarises intermediated general insurance with APRA-authorized general insurers, Lloyd's underwriters and unauthorized foreign insurers.
- [26 March 2024 – SPEECHES – APRA publishes Chair John Lonsdale's speech to AFR Banking Summit](#) – At the annual AFR Banking Summit in Sydney, John Lonsdale presented a speech entitled "Severe but plausible: Taking a wider view of risk". He focused on the safety of the financial system and the continuous maintenance that APRA and banks need to do in order to ensure its safety and resilience.
- [25 March 2024 – SPEECHES – Member Therese McCarthy Hockey's remarks to COBA CEO and Director Forum](#) – Therese McCarthy Hockey emphasised the role that risk management plays in APRA's work to the Customer Owned Banking Association's CEO and Director Forum in Sydney. APRA's work is informed by reducing the regulatory for industry participants by being forward-looking and having tailoring the extent of regulation to be proportional to the risks involved.

OTHER TOPICS

Proposed legislative amendments

The Government has introduced the following bills that propose to amend corporations laws:

- [27 March 2024 – BILL – Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#) – The Treasurer, Dr Jim Chalmers, introduced this bill to Parliament on 27 March 2024. The bill proposes extensive amendments to the *Corporations Act 2001* (Cth) arising from recommendations by the Financial Market Infrastructure Regulatory Reforms: Advice to Government from the Council of Financial Regulators, July 2020. It proposes a crisis management and resolution regime (including a new Part 7.3B Crisis resolution for CS facility licensees), boosting the licensing regimes of ASIC and the Reserve Bank, introduce a requirement for companies to make sustainability disclosures in their reports, and redistribute some of the role of ASIC, the RBA and the Minister. The bill was referred to the Senate Economic Legislation Committee which is due to report by 30 April 2024.
- [27 March 2024 – BILL – Treasury Laws Amendment \(Delivering Better Financial Outcomes and Other Measures\) Bill 2024](#) – Dr Andrew Leigh, the Assistant Minister for Competition, Charities and Treasury, introduced this bill to Parliament on 27 March 2024. Among other things, the bill proposes to clarify the regime for payment for financial adviser fees and streamline financial advice regulations that bring no benefits

to clients. The bill was referred to the Senate Economic Legislation Committee which is due to report by 20 June 2024.

- [27 March 2024 – BILL – Treasury Laws Amendment \(Making Multinationals Pay Their Fair Share – Integrity and Transparency\) Bill 2023](#) – This bill has been passed by the Senate and now awaits Assent. The bill relates mostly to taxation law and also amends Chapter 2M of the *Corporations Act 2001* (Cth) to require public companies to disclose information about their subsidiaries in financial reports via a “consolidated entity disclosure statement”. Those amendments will be in effect on the day after Assent.
- [27 March 2024 – BILL – Treasury Laws Amendment \(Support for Small Business and Charities and Other Measures\) Bill 2023](#) – This bill has been passed by the Senate, with amendments which the House of Representatives has not yet considered. Parliament is scheduled to sit next on 14 May 2024. The bill relates mostly to taxation law and proposes to restore the capacity of the Australian Financial Complaints Authority to consider certain complaints about superannuation under Part 7.10A of the *Corporations Act 2001* (Cth), regardless of whether they meet the definition of “superannuation complaint” in the Act.