

TAXATION

New application form for online GIC remission requests

The ATO have said that they 'have recently reviewed how we can streamline the process of requesting GIC remission and help clients to determine their eligibility. As a result, we have introduced a new application form for online GIC remission requests made through Online services for agents'.

Tax returns: ATO flags its 3 key focus areas

The ATO has advised its priorities for what it terms Tax Time 2024 and flagged three common errors being made by taxpayers.

HECS/HELP debts: changes to indexation rate determination

The Government has issued a media release outlining changes to the way that the indexation factor applied to HELP debts will be calculated.

Victorian Budget 2024-25: no tax-related changes of note

The Victorian Treasurer handed down the State's 2024-25 Budget which included two new measures.

WA Budget 2024-25: stamp duty concession extended

The Western Australian Treasurer has handed down the State's 2024-25 Budget which contained only one tax-related change.

Variation to withholding tax for US resident entertainers

The ATO has issued the draft legislative instrument which will vary the amount a payer must withhold from certain withholding payments made to certain entertainers.

GST

Tax invoice waiver requirement for motor vehicle incentive payments

The ATO has issued the draft legislative instrument which proposes to waive the requirement for a recipient of a supply of a motor vehicle in certain circumstances.

FINANCIAL SERVICES

ASIC consultation: guidance for carbon markets

ASIC has released a consultation paper on proposed updates to Regulatory Guide 236 Do I need an AFS licence to participate in carbon markets? (RG 236).

SUPERANNUATION

ASIC super advice warning - social media click-bait and cold-calling

ASIC is warning consumers to be wary of cold calling operators and online click-bait advertisements for superannuation switching business models.

ASIC review of super trustee advice charging practices

ASIC has released a report entitled Rep 781 Review of super trustee practices: Protecting members from harmful advice charges.

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

New application form for online GIC remission requests

The ATO have stated that 'there are specific, legislated grounds where general interest charge (GIC) can be remitted, however we see many applications that don't address the circumstances that caused the late payment. These applications cause significant reverse workflow for the ATO, tax practitioners and clients. As a result, we have introduced a new application form for online GIC remission requests made through Online services for agents. The form will simplify remission applications by guiding the applicant to provide the required information for a remission decision to be made. This will generally reduce the need for further information requests, streamlining the overall process. Existing methods for submitting remission requests will remain available.

Remission of GIC is only available where the delay in payment was beyond a client's control, or if it was within their control, that it is fair and reasonable for us to remit it. When assessing

applications for GIC remission we will consider a client's circumstances, how it prevented them from paying on time and what steps they took to reduce the delay in payment. Further information and instructions are available on our [website](#).'

Tax returns: ATO flags its 3 key focus areas

The ATO has [advised its priorities](#) for what it terms "Tax Time 2024". It flags "Three common errors" being made by taxpayers, stating that while these mistakes "are often genuine, sometimes they are deliberate". These are: (i) incorrectly claiming work-related expenses; (ii) inflating claims for rental properties; and (iii) failing to include all income when lodging.

The ATO points out that last year it revised the fixed rate method of calculating a working from home deduction to broaden what is included, increase the rate and adjust the records needed. To use this method, taxpayers need records that show the actual number of hours worked from home (eg a calendar, diary or spreadsheet) and the additional running costs incurred to claim a deduction (eg electricity or internet bill). The ATO warns against copying and pasting from last year's return.

The ATO data shows that "Nine out of 10 property owners are getting their income tax returns wrong". The release does not drill down to specifics, but cites the most common issue – ie replacement v repair.

Taxpayers who lodge before their return has been fully pre-filled run the risk of overlooking to include interest, dividend income, payments from other government agencies and private health insurers.

HECS/HELP debts: changes to indexation rate determination

The Government has issued a [media release](#) outlining changes to the way that the indexation factor applied to HELP debts will be calculated (issued by the Minister for Education (Jason Clare) and Minister for Skills and Training (Brendan O'Connor)).

A student who receives a HELP loan under any of the student loan schemes has an "accumulated HELP debt" with the ATO. The loan is subject to yearly indexation, but is otherwise interest-free.

Indexation is applied to any HECS/HELP debt that's older than 11 months, once a year on 1 June. The CPI number is currently used to index debts and it was recently announced that debts will increase by 4.7% on 1 June 2024. In addition, inflation pushed the indexation rate for 2022-23 debts to 7.1%, the highest since 1990.

The Ministers' media release flags two proposed changes (which require legislative amendments to the Higher Education Support Act 2003).

First, the indexation factor will be the lower of the CPI or the Wages Price Index ("WPI"). The quarterly WPI measures change in the price of wages and salaries in the Australian labour market over time. In a similar way to the CPI, it follows changes in the hourly rate paid to a fixed group (or "basket") of jobs.

Second, the change will be backdated to 2022-23, ie the new system will apply to the 2022-23, 2023-24 and following years.

Victorian Budget 2024-25: no tax-related changes of note

The Victorian Treasurer has handed down the State's [2024-25 Budget](#). It included the following two new measures.

- Standalone land tax exemption for social and emergency housing: The Government will introduce a standalone land tax exemption for land that is used to provide social and emergency housing. Additionally, the exemption will apply to charity-owned land where social and emergency housing is under development. The exemption clarifies existing arrangements that owners of land used to provide social and emergency housing are not liable to pay land tax. The exemption will support the continued provision of social and emergency housing. The exemption will commence in the 2025 land tax year (calendar year).
- Harmonise the waste levy with NSW and SA: To harmonise with levy rates in New South Wales and South Australia, Victoria's metropolitan industrial and municipal waste levy will be increased to \$169.79 per tonne from 1 July 2025. The waste levy rates will also be proportionally increased at rural landfills, which attract lower levies than metropolitan landfills. The Priority Waste Levy for Category C and D waste will also increase to \$169.79 per tonne on 1 July 2025. The rates for other categories of priority waste will be unchanged to continue to encourage the safe disposal of hazardous waste materials.

WA Budget 2024-25: stamp duty concession extended

The Western Australian Treasurer has handed down the State's [2024-25 Budget](#). It contains only one tax-related change, extending the stamp duty concession for first home buyers.

For transactions entered into on or after 9 May 2024:

- the unencumbered value of the home and land together must not exceed \$600,000 (up from \$530,000);
- no duty is payable if the dutiable value does not exceed \$450,000 (up from \$430,000);
- if the dutiable value is between \$450,000 and \$600,000, duty is payable at a rate of \$15.01 for every \$100, or part of \$100, by which it exceeds \$450,000. (The concession that applied to transactions entered into before 9 May 2024 was if the dutiable value was between \$430,000 and \$530,000, duty was payable at a rate of \$19.19 for every \$100, or part of \$100, by which it exceeded \$430,000.)

Note that the old rates continue to apply to agreements entered into before 9 May 2024, ie even if settlement occurs after this date.

Variation to withholding tax for US resident entertainers

The ATO has issued the draft legislative instrument [Taxation Administration \(Withholding Variation for Certain Payments to US Resident Entertainers Including Athletes\) Legislative Instrument 2024](#). It will vary the amount a payer must withhold (to nil) from certain withholding payments made to entertainers who are residents of the US.

Once finalised, the instrument will replace the instrument entitled Taxation Administration Act 1953 - Pay as you go withholding - Variation to remove the requirement to withhold from payments for certain US resident entertainers and sport persons.

Date of effect: The day following its registration on the Federal Register of Legislation.

Comments are due by 6 June 2024.

GST

Tax invoice waiver requirement for motor vehicle incentive payments

The ATO has issued the draft legislative instrument [A New Tax System \(Goods and Services Tax\): Waiver of Tax Invoice Requirement \(Motor Vehicle Incentive Payment Made to Motor Vehicle Dealer\) Determination 2024](#). The exposure draft proposes to waive the requirement for a recipient of a supply of a motor vehicle in certain circumstances to hold a tax invoice before the relevant input tax credit will be attributable to a tax period.

Date of effect: The day following its registration on the Federal Register of Legislation.

Comments are due by 6 June 2024.

FINANCIAL SERVICES

ASIC consultation: guidance for carbon markets

ASIC has released a [consultation paper](#) on proposed updates to Regulatory Guide 236 Do I need an AFS licence to participate in carbon markets? ([RG 236](#)).

The proposed updates address the implications of the safeguard mechanism reforms to the financial services and markets section of the Corporations Act 2001, as well as changes in the regulatory landscape for carbon markets, particularly Australian Carbon Credit Units (ACCUs), that have occurred since RG 236 was last re-issued in May 2015.

Comments due by 3 June 2024.

SUPERANNUATION

ASIC super advice warning - social media click-bait and cold-calling

ASIC is [warning](#) consumers to be wary of cold calling operators and online click-bait advertisements, following ASIC's [review](#) of cold calling for superannuation switching business models. ASIC's analysis indicates that some business models may be engaging in misleading and deceptive conduct.

ASIC review of super trustee advice charging practices

ASIC has released a report entitled [Rep 781 Review of super trustee practices: Protecting members from harmful advice charges](#). This report reviews how super trustees are acting to protect members' superannuation balances from erosion by inappropriate advice charges.

Continued deficiencies have been observed in oversight of advice fee deductions by some trustees. ASIC has stated it has an ongoing interest in whether trustees are complying with the law in this area and will take regulatory action as appropriate where they identify non-compliance.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [10 May 2024 – MEDIA RELEASE – Brett Paul Trevillian pleads guilty to making false documents](#) – Director of Metal Alpha Pty Ltd, Brett Paul Trevillian has pleaded guilty to forging portfolio performance verification reports when he was investment manager for AlphaThorn Pty Ltd. He falsified four reports for two of AlphaThorn's investment products in 2019. The matter will return to the Sydney District Court on 7 June 2024.
- [9 May 2024 – MEDIA RELEASE – Western Australian directors convicted for failing to have director identification numbers](#) – Section 1272C of the *Corporations Act 2001* (Cth) requires directors of companies to have director identification numbers. Two Perth directors have been convicted in the Perth Magistrates Court and fined \$5,000 each for failing to have a DIN.
- [9 May 2024 – MEDIA RELEASE - ASIC freezes assets of Brisbane financial advisor](#) – ASIC has commenced proceedings against Mr Sunny Mahendra Prakash and his related companies, having obtained asset preservation orders from the Federal Court and prevented him leaving Australia. ASIC is investigating his businesses relating to financial advice and client trading accounts from 2016 onwards.
- [9 May 2024 – MEDIA RELEASE – ASIC calls on super trustees to renew efforts to improve gatekeeping of member savings](#) – A new ASIC report, *REP 781 Review of superannuation trustee practices: Protecting members from harmful advice charges*, indicates that, although superannuation trustees have made progress in monitoring member fee deductions, there is still a need to watch out for cold callers and other

unscrupulous industry operators from attempting to prey on fund members.

- [9 May 2024 – MEDIA RELEASE – J.P. Morgan Securities \\$775,000 penalty for market gatekeeper failure](#) – *The ASIC Market Integrity Rules (Futures Markets) 2017* prohibit the creation of false markets. The Markets Disciplinary Panel has fined J.P. Morgan for allowing suspicious orders to be placed for Eastern Australian wheat futures in 2022.
- [7 May 2024 – MEDIA RELEASE – ASIC issues warning over dodgy cold calling operators and online baiting tactics](#) – ASIC has warned superannuation fund members to be aware of aggressive cold calling and social media posts to encourage them to switch their superannuation funds when it is not in their best interests. Members in the accumulation phase of their careers (generally aged 25 to 50) are targeted and run the risk of having their retirement savings eroded if they shift them to an unsuitable fund.
- [7 May 2024 – NEWS ITEM – Exposing high-pressure cold calling tactics and social media click-bait leading to superannuation switching](#) – ASIC has reviewed the practices of cold calling operators used by some financial advisers, licensees and superannuation fund trustees to encourage clients to switch their funds. The sales tactics were often high-pressure and the following advice to clients was often inappropriate for clients' needs. ASIC reminds licensees and superannuation trustees of their responsibilities to their clients.
- [6 May 2024 – NEWS ITEM – ASIC consults on updated guidance for carbon market participants](#) – ASIC has opened a consultation on proposed amendments to Regulatory Guide 236 *Do I need an AFS licence to participate in carbon markets?* The Guide was last reissued in 2015 and the proposed revisions address the implications of the safeguard mechanism reforms to the *Corporations Act 2001* (Cth). Interested parties can make submissions until 3 June 2024.
- [6 May 2024 – NEWS ITEM – ASIC and UK Financial Reporting Council sign agreement to recognise audit qualifications](#) – ASIC and the FRC have entered into a memorandum of understanding to allow auditors with professional qualifications as statutory auditors in either Australia or the United Kingdom to apply to have their qualifications and audit rights acknowledged in the other nation. The agreement was signed by the ASIC Chair, Mr Joe Longo and the FRC's Executive Director of Supervision, Ms Sarah Rapson.
- [3 May 2024 – MEDIA RELEASE – Henry Heng sentenced for failing to disclose interests as a company director](#) – In the Perth Magistrates Court, Henry Eng Chye Heng has pleaded guilty to failing his duties as a director to advise the market operator of changes in his interests in Eneco Refresh in accordance with s 205G of the *Corporations Act 2001* (Cth). He was released on payment of a \$10,000 surety and conditional on maintaining good behaviour for 12 months. In April, he was sentenced to 18 months' imprisonment for market manipulation in the Perth District Court.
- [3 May 2024 – MEDIA RELEASE – ASIC wins first court outcome regarding a non-cash payment facility involving crypto assets](#) – In the Federal Court, Downes J has found that BPS Financial Pty Ltd had provided financial services while unlicensed and engaged in misleading and deceptive conduct in its offer of the "Qoin Wallet", a payment facility using a crypto-asset token. Downes J found that the Qoin Wallet was a financial product, a non-cash payment facility. The judgment is available [here](#).

APRA news

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

- [9 May 2024 – NEWS ITEM – APRA's \[sic\] publishes letter to support the implementation of the new PHI capital framework](#) – APRA has advised private health insurers about key takeaways from its review of the summary statements for their capital adequacy plans and the implementation of their capital reporting standards. Since 1 July 2023, APRA has required health funds to improve their capital management practices and align them with other sectors of the insurance industry.