

IPA NEWS

Advocacy Update: Tax Agent Services (Code of Professional Conduct) Determination 2024

The Institute of Public Accountants is happy to announce that significant progress has been made to address our concerns about the controversial client disclosure and section 15 in the Tax Agent Services (Code of Professional Conduct) Determination 2024.

Anti-Money Laundering and Counter-Terrorism Financing Update

We provide an update following the introduction into Parliament last week of the Anti-Money Laundering (AML) Bill.

TAXATION

Transitional rule for new Code of Conduct obligations: Instrument registered

An instrument has been registered codifying the transitional rule providing certain firms additional time to become compliant with new Code of Conduct obligations.

2024 No 1 Bill introduced: CGT withholding, STP declarations, self-amendment for SMEs

The Treasury Laws Amendment (2024 Tax and Other Measures No 1) Bill 2024 has been introduced to the House of Representatives.

Australia and Slovenia tax treaty signed

Australia and Slovenia have signed a new tax treaty encouraging cross-border trade and investment by reducing withholding tax rates on dividends, interest and royalties.

Variation to withholding payments to US resident entertainers: instrument registered

The ATO has registered the Taxation Administration (Withholding Variation for Certain Payments to US Resident Entertainers Including Athletes) Legislative Instrument 2024.

Motor vehicle incentive payment tax invoice waiver: Instrument registered

The ATO has registered a new instrument, with the same substantive effect, to replace the 2014 legislative instrument due to sunset on 1 October 2024.

ATO Cybersecurity

Stay up to date with the latest information on scams, cyber safety and identity protection.

ATO NFP self-review return

Read the latest blog from Assistant Commissioner, Jennifer Moltisanti and get helpful tips for charitable NFPs, self-assessed income tax exempt NFPs and taxable NFPs.

ATO Private Stewardship Group – Expressions of interest

Join the ATO's Private Groups Stewardship Group – Expressions of interest open now. Do you have expertise, knowledge and insights relating to privately owned and wealthy groups?

SUPERANNUATION

Decrease in default inflation rate for retirement estimates and super calculators

ASIC Corporations (Amendment) Instrument 2024/733 amends the default inflation rate for retirement estimates and super calculations from 4.0% to 3.7%.

"Once in a generation" Aged Care reforms

The Aged Care Bill 2024 has been introduced, with the new arrangement resulting in around half of new aged care residents paying more for their residential care.

FINANCIAL SERVICES

ASIC releases enforcement and regulatory update

ASIC has released REP 794 ASIC enforcement and regulatory update: January - June 2024, which sets out recent outcomes in enforcement and regulation.

Sustainability reporting Bill finally passes both Houses

The Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 has passed both Houses of Parliament.

Final report on laws for virtual meetings and electronic handling of company documents

The Government has tabled the Statutory Review of Meetings and Documents Amendments Final Report, and will consider the panel's report.

Reforming the Anti-Money Laundering and Counter-Terrorism Financing regime

The Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024 has been introduced to reform the AML/CTF regime.

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.

Legislative Amendments and Proposals, Government Announcements and Consultations

Updates from the Government including legislation.

IPA NEWS

Advocacy Update: Tax Agent Services (Code of Professional Conduct) Determination 2024

The Institute of Public Accountants is happy to announce that significant progress has been made to address our concerns about the controversial client disclosure and section 15 in the Tax Agent Services (Code of Professional Conduct) Determination 2024. This is a major advocacy win for all the professional bodies that have been working together on behalf of all registered tax practitioners operating under TASA.

On 2 July 2024, the joint bodies responded to the determination registration after previously responding to an exposure draft earlier in the year. Since then, the professional bodies have been in regular contact with Assistant Treasurer Stephen Jones and the Treasury to advocate for further changes to the tax determination that the Commonwealth Government will finalise through an industry consultation process by early October 2024.

Broadly speaking, the Commonwealth Government has committed to aligning the obligations in section 15, the 'dob in' provision, with principles from the Accounting Professional and Ethical Standards Board Code of Ethics. Not all registered tax practitioners are subject to the same ethical and professional as members of accounting bodies.

It has also committed to "reduce the number of items in the disclosure obligations in section 45 such as personal information, and to remove duplicative items that are already covered in

other areas of the law". Section 45 will only require significant matters already in the public domain such as convictions for fraud, dishonesty, serious tax offences, and suspensions or terminations by the Tax Practitioners Board in the main.

These committed changes are a significant step forward in addressing our concerns about the impact that sections 15 and 45 of the currently tabled determination will have on tax professionals. Assistant Treasurer Jones has reiterated that the positive obligation for tax practitioners to report clients to the Australian Taxation Office or the TPB will only apply to the most egregious cases, which is consistent with the existing APES and NOCLAR obligations.

ACT Senator David Pocock voted against the disallowance motion, but has stated that if the Commonwealth Government does not address the joint bodies concerns within the next month, he will consider the option of moving the disallowance prior to the end of the disallowance period for this instrument (determination). The Commonwealth Government has reiterated that they are committed to these changes during the discussion on the motion to disallow the determination in the Australian Senate.

To date, the Commonwealth Government has already inserted a transitional rule into the determination that provides firms with less than 100 or less until **1 July 2025** and larger firms with 101 employees or more until **1 January 2025** to comply these new obligations. This instrument was registered on 9 September 2024.

The IPA will continue to work with our professional colleagues and the Commonwealth Government to achieve a better outcome for all tax practitioners, and thank the Assistant Treasurers staff and Treasury representatives for acknowledging our recommended changes to align the policy with the intent for the reforms.

We want the professional code changes to be clear, practical and fair for the tax profession who play a critical role in helping millions of small businesses who use their services comply with the myriad of compliance obligations imposed on them.

Anti-Money Laundering and Counter-Terrorism Financing Update

AUSTRAC, the financial crimes regulator has contacted IPA and other professional bodies to advise they will be consulting with stakeholders on the AML Rules and guidance to ensure compliance with the new legislation.

A timetable for consultation, engagement and education campaigns by AUSTRAC is currently being developed.

IPA will keep members updated as developments unfold.

TAXATION

Transitional rule for new Code of Conduct obligations: Instrument registered

The Government has registered the [Tax Agent Services \(Code of Professional Conduct\) Amendment \(Measures No. 1\) Determination 2024](#). The Instrument codifies the earlier

announcement of the transitional rule to provide certain firms additional time to bring themselves into compliance with the new obligations set out in the Tax Agent Services (Code of Professional Conduct) Determination 2024 (the "Determination").

The Instrument amends the application provision in the Determination to allow a length of transition period for a tax practitioner depending on the size of the firm or practice in which they work to provide tax agent services. The size of the tax practitioner is based on the number of employees that the tax practitioner or related tax practitioner firm or practice had on 31 July 2024.

Firms with 100 employees or less have until 1 July 2025 while larger firms with 101 employees or more have until 1 January 2025 to bring themselves into compliance with the new obligations, so long as they continue to take genuine steps towards compliance during this period.

DATE OF EFFECT: 10 September 2024.

2024 No 1 Bill introduced: CGT withholding, STP declarations, self-amendment for SMEs

The [Treasury Laws Amendment \(2024 Tax and Other Measures No 1\) Bill 2024](#) was introduced into the House of Reps on 12 September 2024. It contains the following measures.

Foreign resident CGT withholding

The Bill will:

- increase the withholding rate to 15% (from 12.5%); and
- remove the threshold before which withholding applies so that disposals of relevant CGT assets by a foreign resident are subject to the withholding requirements regardless of the market value of the CGT asset.

The amendments apply to acquisitions made on or after the later of the start of 1 January 2025 and the commencement of Sch 1 to the Bill (the latter being the first day of the quarter occurring after the Bill receives assent).

STP standing elections

The Bill will allow an employer to make a standing declaration that covers multiple single touch payroll lodgements by the agent on the employer's behalf. Currently, the law requires the employer to lodge a declaration to their agent in relation to each STP lodgement.

The changes will apply to declarations that are made on or after the date that the Bill receives assent.

SME self-amendments

The Bill will extend the time in which the small or medium business taxpayer may apply to have a tax assessment amended. The period will be extended from 2 to 4 years after the

Commissioner has given notice of an assessment.

The changes will apply to assessments issued after commencement for income years starting on or after 1 July 2024. Schedule 3 starts on the first day of the quarter following assent.

Phasing out of cheques by the ATO

The Bill will extend the circumstances in which the Commissioner may retain an entity's tax refund. The purpose of this power will be to encourage those who prefer to use cheques to provide details for electronic transfer. Specifically, the Commissioner will have the authority to retain the refund amount until the end of the day the entity gives the Commissioner a nominated Australian financial institution account in the approved form that meets the applicable account requirements. If the Commissioner does not obtain nominated financial institution account details which satisfy the applicable requirements, the ATO can retain until the end of the 90-day holding period.

The changes will take effect to amounts the ATO refunds on or after the commencement date of Sch 4 to the Bill, which is the first day of the quarter following assent.

Australia and Slovenia tax treaty signed

On 9 September 2024, Australia and Slovenia signed a new [tax treaty](#), the Convention between Australia and the Republic of Slovenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance and its associated Protocol.

The tax treaty with Slovenia will encourage cross-border trade and investment by reducing withholding tax rates on dividends, interest, and royalties.

The new tax treaty will enter into force after both countries have completed their domestic requirements and instruments of ratification have been exchanged.

Variation to withholding payments to US resident entertainers: instrument registered

The ATO has registered the [Taxation Administration \(Withholding Variation for Certain Payments to US Resident Entertainers Including Athletes\) Legislative Instrument 2024](#). The Instrument varies the amount an Australian payer must withhold (to nil) from certain withholding payments made to entertainers who are residents of the US when they undertake activities as an entertainer in Australia.

The Instrument also provides payers with an exemption from having to give a payment summary for payments to US resident entertainers, where no amount was withheld from those payments in a financial year.

The Instrument repeals and replaces the 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 (first made in 2014), which would otherwise sunset on 1 October 2024. The instrument has the same substantive effect as the instrument made in

2014.

DATE OF EFFECT: 11 September 2024.

Motor vehicle incentive payment tax invoice waiver: Instrument registered

The ATO has registered the [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 instrument waives 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. It applies where the recipient makes a creditable acquisition of a motor vehicle from a motor vehicle dealer and, in addition to the consideration payable by the recipient, the motor vehicle dealer receives or is entitled to receive third-party consideration in the form of a motor vehicle incentive payment.

The Instrument repeals and replaces the 2014 legislative instrument which would otherwise sunset on 1 October 2024. The instrument has the same substantive effect as the one it is replacing.

DATE OF EFFECT: 11 September 2024.

ATO Cybersecurity

Read about the latest scams, cyber safety and identity protection on the ATO website. The latest update from the ATO is on *'No more hyperlinks in our SMS'*

You can access the ATO website information [here](#)

ATO NFP self-review return

This latest blog from Assistant Commissioner, Jennifer Moltisanti covers topics such as:

- The role of the ATO
- Moving from confusion to clarity
- Tips for charitable NFPs
- Tips for NFPs that self-assess as income tax exempt
- Tips for taxable NFPs
- Tips for timely lodgment of the NFP self-review return
- Tips to speed up your endorsement applications

You can access the full blog [here](#)

ATO Private Stewardship Group – Expressions of Interest

The ATO is seeking new members to join the [Private Groups Stewardship Group](#) (PGSG), a forum for direct dialogue with the ATO where experts from business, tax advisory services, professional associations and industry bodies can contribute their own insights on private

group tax matters.

If you – or any of your clients, peers and colleagues – would like to join the PGSG, please submit your [Expression of Interest](#) by 2 October.

SUPERANNUATION

Decrease in default inflation rate for retirement estimates and super calculators

[ASIC Corporations \(Amendment\) Instrument 2024/733](#) (the "Amending Instrument") amends the required default inflation rate to be used in retirement estimates and superannuation calculators to qualify for relief from certain Australian financial services ("AFS") requirements.

[ASIC Corporations \(Superannuation Calculators and Retirement Estimates\) Instrument 2022/603](#) (the "original instrument") provides conditional relief from the AFS licensing requirements of the Corporations Act for superannuation fund trustees who prepare retirement estimates for their members, and for providers of superannuation calculators. Where a trustee or other provider already holds an AFS licence, the Instrument provides relief from certain requirements relating to Financial Services Guides, Statements of Advice and general advice warnings.

Default inflation rate 3.7%

The Amending Instrument revises the default inflation rate in the original instrument used to calculate the present value (applying to the accumulation phase) of a superannuation calculation or retirement estimate relying on the relief from 4.0% per year to 3.7% per year.

Transition period 11 September 2024 - 31 December 2024

The Amending Instrument also provides a transition period between 11 September 2024 and 31 December 2024, when providers of superannuation calculators and retirement estimates may use a default inflation rate of either 3.7% per year or 4.0% per year.

From 1 January 2025, providers must use the default inflation rate of 3.7% per year.

"Once in a generation" Aged Care reforms

The Government has introduced the [Aged Care Bill 2024](#) which will respond to around 60 recommendations of the Royal Commission into Aged Care Quality and Safety ("Royal Commission"). This new arrangement will result in around half of new aged care residents paying more for their residential aged care.

\$5.6 billion will be invested in the reform package which represents the most significant improvement to aged care in 30 years.

A "no worse off" principle will provide certainty to people already in aged care and they won't make a greater contribution to their care.

A "no worse off" principle will also apply to the contributions arrangements for people who, on 12 September 2024, were either receiving a Home Care Package, on the National Priority System, or assessed as eligible for a package. These participants will be no worse off because of the reforms: they make the same contributions, or lower, than they would have had under Home Care arrangements.

For more information see the following media release and fact sheets on the Department of Health and Aged Care website:

- [Once in a generation aged care reforms](#)
- [Case Studies: Support at Home](#)
- [Support at Home fact sheet](#)
- [Residential aged care accommodation reform](#)
- [Residential care contributions](#)
- [Case studies: residential care](#)

FINANCIAL SERVICES

ASIC releases enforcement and regulatory update

ASIC has released [REP 794 ASIC enforcement and regulatory update: January to June 2024](#), which sets out recent outcomes in enforcement and regulation. The report includes a [Regulatory developments timetable](#) which outlines proposed timeframes for ASIC regulatory work, such as the publication of draft or final guidance, anticipated making of a legislative instruments or publication of insights arising from thematic surveillances.

Sustainability reporting Bill finally passes both Houses

The [Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#) has finally passed both Houses of Parliament, with 7 Government amendments.

Schedule 4 of the Bill will implement standardised, internationally aligned requirements for mandatory disclosure of climate-related risks and opportunities in Australia. Although clearly not tax-related, it will impact many companies and its reach will no doubt extend over time.

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.

The amendment to Schedule 4 of the Bill requires entities to use both a higher and a lower global average temperature increase scenario, where the sustainability standards require the disclosure of a scenario analysis or information derived from or about a scenario analysis.

Final report on laws for virtual meetings and electronic handling of company documents

The Government has tabled the [Statutory Review of Meetings and Documents Amendments Final Report \(August 2024\)](#). The panel conducting the review examined the operation of the

amendments to the Corporations Act 2001 made by:

- Schedule 1 to Treasury Laws Amendment (2021 Measures No 1) Act 2021; and
- Corporations Amendment (Meetings and Documents) Act 2022.

The amendments provided for virtual company meetings and the electronic distribution, signing and execution of company documents. Companies planning their annual general meetings can do so with the knowledge that the provisions for wholly virtual meetings will continue to be in effect.

The Government will consider the panel's report and publish its response to the 11 recommendations in due course.

Reforming the Anti-Money Laundering and Counter-Terrorism Financing regime

The [Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024](#) has been introduced to reform Australia's anti-money laundering and counter-terrorism financing regime, which is comprised of:

- the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 ("the AML/CTF Act");
- the Anti-Money Laundering and Counter-Terrorism Rules Instrument 2007 (No.1) ("the AML/CTF Rules");
- and associated regulations.

The Bill will repeal the Financial Transaction Reports Act 1988 ("FTR Act") and make amendments to the AML/CTF Act to:

- extend the AML/CTF Act and AML/CTF Rules and associated regulations to additional services that are globally recognised by the Financial Action Task Force (FATF) - the global financial crime body - as posing high money laundering and terrorism financing risks. This includes certain higher-risk services provided by real estate professionals, professional service providers including lawyers, accountants and trust and company service providers, and dealers in precious stones and metals (known as "tranche two" entities);
- simplify the AML/CTF program and customer due diligence ("CDD") obligations to minimise regulatory burden and improve compliance;
- provide new powers for the Australian Transaction Reports and Analysis Centre ("AUSTRAC"), as the AML/CTF regulator and Financial Intelligence Unit (FIU), to require the disclosure of information and conduct examinations; and
- modernise the regime to reflect changing business structures, technologies and illicit financing methodologies.

The reforms will not fundamentally change the central tenets of the existing AML/CTF regime, which align with international obligations.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [13 September 2024 – NEWS ITEM – ASIC updates superannuation forecasts relief instrument](#) – ASIC has revised the default rate of nominal wage inflation in ASIC (*Superannuation Calculators and Retirement Estimates*) Instrument 2022/603 from 4% per annum to 3.7% per annum to align with the long-term wage forecast in the 2023 *Intergenerational Report*. The new rate applies from 1 July 2025. Providers of superannuation calculators and estimates based on the default rate need to update their models.
- [11 September 2024 – NEWS ITEM – ASIC warns consumers of suspicious investment opportunities in digital gold vaults](#) – ASIC is cautioning consumers to be wary of suspicious investment promotions in digital gold offered by unlicensed entities. The promoters exploit trusted social networks to publicise opportunities. However, because the entities promoting the vaults are mostly based overseas, verifying the actual existence of the digital gold vaults is difficult and at least some of the products may actually be Ponzi schemes.
- [11 September 2024 – MEDIA RELEASE – ASIC suspends AFS Licence of Olritz Financial Group Pty Ltd](#) – ASIC has suspended the Australian financial services licence of Olritz Financial Group Pty Ltd until 5 March 2025. Olritz had held the licence since 2004 but had not carried on a financial services business since May 2023.
- [10 September 2024 – MEDIA RELEASE – ASIC calls on product issuers to review distribution practices for DDO compliance](#) – ASIC urges financial product issuers to review their distribution practices to ensure their compliance with the law. Its concerns arose after a survey of 19 high-risk investment, insurance and credit products which revealed that the questionnaires for consumers were not adequate in ensuring that they corresponded to the target market determinations for the product, many issuers had only rudimentary due diligence for third party distributors and a lack of monitoring for consumer outcomes and product performance. Report 795 *Design and distribution obligations: Compliance with the reasonable steps obligation* is available as is a revised version of Regulatory Guide RG 274 *Product design and distribution obligations*.
- [9 September 2024 – MEDIA RELEASE – ASIC to target misconduct in banking and superannuation sectors](#) – ASIC has released its Enforcement and regulatory update (REP 794) covering the first half of 2024. The report discusses ASIC's high success rate in its prosecutions, obtaining over \$32 million in civil penalties and nine criminal convictions in the courts. On the regulatory side, ASIC found that large home lenders can do more to assist their customers during periods of unforeseen financial hardship and superannuation trustees can be more proactive in boosting the performance of their products.
- [9 September 2024 – MEDIA RELEASE – Former director of Reiwa-Capital sentenced after brazenly using \\$440,000 of investor funds](#) – In the District Court of New South Wales, Russell Sandiford, the former Director of Reiwa-Capital, has been sentenced to two years and eight months' imprisonment for his dishonest use of investors' funds. He pleaded guilty to two counts of dishonest conduct relating to a financial product which is prohibited by s 1041G of the *Corporations Act 2001* (Cth). The two counts were connected to emails he sent to addresses he had accessed through his previous employment as a trader and analyst. In all, 74 individuals were affected.

APRA news

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

- [12 September 2024 – MEDIA RELEASES – APRA releases quarterly authorised deposit-taking institution statistics for June 2024](#) – APRA has released its Quarterly Authorised Deposit-taking Institution Statistics for the June 2024 quarter. Profits for regulated institutions declined by 6.7% over the preceding 12 months because of stagnating income growth. The total of assets held by regulated entities grew by 1.7% over the same period.
- [10 September 2024 – MEDIA RELEASES – APRA proposes update to bank capital framework to strengthen crisis preparedness](#) – APRA proposes changes to the capital framework for banks regarding hybrid instruments to simplify and improve the effectiveness of bank capital in a crisis. The proposals centre on the phasing out of hybrid bonds and their replacement with more reliable forms of capital that would be less vulnerable to fluctuations in times of financial stress. The proposals are outlined in a discussion paper. Interested parties may make submissions until 8 November 2024.

Legislative amendments and proposals, government announcements and consultations

- [9 September 2024 – LEGISLATION – Statutory Review of the Meetings and Documents Amendments – final report](#) – The report of the panel conducting the review of the Meetings and Documents Amendments, as required by the transitional provisions, was tabled in Parliament. The panel drew on the views of companies, registered schemes, members, shareholders and other interested parties. It recommended that no further amendments be made in relation to the meeting formats available for listed public companies and listed registered schemes. However, it also suggests that the provisions about meetings could be “better targeted”. Other entities, such as proprietary companies, unlisted public companies, should be permitted to determine the appropriate meeting format. Furthermore, ASIC and ASX should provide guidance on sound practice by listed companies.
- [9 September 2024 – LEGISLATION – Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#) – This bill finally passed both Houses of Parliament after the House of Representatives agreed to amendments introduced by the Senate. Schedule 4 of the bill implements standardised, internationally aligned requirements for mandatory disclosure of climate-related risks for certain entities in Australia, expand ASIC’s powers and introduce a crisis management and resolution regime for domestic clearing and settlement facilities in a new Part 7.3B of the *Corporations Act 2001* (Cth). The main amendments take effect from the day after assent.