

## **IPA NEWS**

### **APESB issues revised APES 310 Client Monies**

The Accounting Professional & Ethical Standards Board Limited (APESB) have issued a revised APES 310 *Client Monies* (APES 310)'.

## **TAXATION**

### **Bills referred to Senate Committees**

The Senate has referred the provisions of a number of bills to Senate committees for reporting in October and November 2024.

### **Restructures in response to new thin cap rules - Draft PCG 2024/D3**

Draft PCG 2024/D3 outlines the ATO's proposed compliance approach to restructures undertaking in response to recent amendments to the thin capitalisation rules.

### **Code of Professional Conduct clarified**

Tax Agent Services (Code of Professional Conduct) Amendment (Measures No. 2) Determination 2024 has been registered to clarify sections of the Code of Conduct.

### **Commonwealth penalty units increased from \$313 to \$330**

Legislation has been passed that amends the Crimes Act 1914 to increase the Commonwealth penalty unit from \$313 to \$330.

### **Administrative Review Tribunal replaces AAT from Monday 14 October 2024**

The new Administrative Review Tribunal (ART) will commence operation on Monday 14 October. It replaces the Administrative Appeals Tribunal (AAT).

### **Updated ATO Practice Statements**

The ATO has released updated versions of PS LA 2007/7, PS LA 2008/9, and PS LA 2021/3 to conform with the ATO's current style and accessibility requirements.

### **Personal financial advice fees paid by superannuation funds – claiming deductions and PAYG withholding obligations**

The ATO is developing a Practical Compliance Guideline to provide superannuation funds with a compliance approach in relation to the amendments made to the *Income Tax Assessment*

Act 1997 (ITAA 1997).

## **ATO nudge pilot on employers' super guarantee obligations**

The ATO have advised that 'We are building on our use of Single Touch Payroll (STP) by matching data from super funds with the amounts reported by employers through STP for each employee–employer relationship'.

## **Administrative Review Tribunal commenced 14 October 2024**

'On 16 December 2022, the Attorney-General, the Hon Mark Dreyfus KC MP, announced that the Government would abolish the Administrative Appeals Tribunal (AAT) and replace it with new Administrative Review Tribunal (ART). In the Attorney-General's [press release](#) he pointed to the recent problems of the AAT'.

## **ATO Update: We're changing our approach to collecting unpaid tax and super**

The ATO have said that 'we are now focusing on businesses who refuse to engage with us and continue to ignore our SMS and letter reminders. This means you may see us taking different steps to those you have seen in the past'.

## **SUPERANNUATION**

### **Superannuation calculators and retirement estimates - updated ASIC relief instrument**

ASIC Instrument 2022/603 has been updated to revise the default inflation rate to calculate the present value of a superannuation calculation or retirement estimate.

## **FINANCIAL SERVICES**

### **ASIC update: Licensing and professional registration activities**

ASIC has released REP 797 outlining key issues, new and proposed changes to licensing processes, and other work ASIC has undertaken that affects licensees.

## **REGULATOR NEWS**

### **ASIC News**

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

## Proposed legislative amendments, government announcements and consultations

Updates from the Government including legislation.

---

### IPA NEWS

#### **APESB issues revised APES 310 Client Monies**

The APESB have advised that 'the key changes in the revised APES 310 consist of:

- allowing the use of an alternative term in the title of the Trust Account, such as 'client account' or similar term, to assist Members who are experiencing difficulties in opening a bank account which includes the term 'Trust Account' in its title (new paragraph 5.2)
- provide a practical option to avoid a situation that might lead to a right of set-off (new paragraph 5.5)
- inclusion of a new definition for confidential information and amendments to the definition of assurance engagement to align with APES 110 Code of Ethics for Professional Accountants (including Independence Standards)(APES 110)
- amendments to the template assurance reports to incorporate quality management-related conforming amendments, references to APES 110 and to align with the revised ASAE 3100 Compliance Engagements issued by the AUASB, which is effective for assurance engagements commencing on or after 15 December 2022 (Appendix 2 and Appendix 3)

Further details of the revisions are set out in the Technical Update 2024/4 released with the revised Standard (refer below).

The revised APES 310 will be effective for engagements or assignments commencing on or after 1 April 2025, with early adoption permitted.

The guidance document, Trust Account Information Sheet has also been updated to reflect changes to APES 310'.

Access the **Technical update** [here](#)

Access the **Standard** [here](#)

Access the **Information Sheet** [here](#)

### TAXATION

#### **Bills referred to Senate Committees**

The Senate has referred the provisions of the following bills to Senate committees for reporting:

- [Anti-Money Laundering and Counter-Terrorism Financing Amendment 2024](#) - submissions due 14 October 2024, [report](#) due 13 November 2024;
- [Universities Accord \(National Student Ombudsman\) 2024](#) - submissions due 1 October 2024, [report](#) due 10 October 2024;
- [Treasury Laws Amendment \(2024 Tax and Other Measures No. 1\) 2024](#) - submissions due 4 October 2024, [report](#) due 24 October 2024; and
- [Aged Care 2024](#) - submissions due 30 September 2024, [report](#) due 31 October 2024.

## Restructures in response to new thin cap rules – Draft PCG 2024/D3

[Draft Practical Compliance Guideline PCG 2024/D3](#) outlines the ATO's proposed compliance approach to restructures undertaken in response to recent amendments to the thin capitalisation rules, including the introduction of the debt deduction creation rules, which apply to assessments for income years starting from 1 July 2024. It features a risk assessment framework, setting out the matters the ATO will take into account in deciding whether to devote compliance resources to further examine a restructure.

PROPOSED DATE OF EFFECT: 22 June 2023 (when the changes were introduced into Parliament).

COMMENTS are due by 8 November 2024.

## Code of Professional Conduct clarified

The [Tax Agent Services \(Code of Professional Conduct\) Amendment \(Measures No. 2\) Determination 2024](#) (the Amending Instrument) has been registered and applies from 1 January 2025 for larger firms and 1 July 2025 for smaller firms.

The Amending Instrument clarifies the following 2 sections of the [Tax Agent Services \(Code of Professional Conduct\) 2024](#) (the Determination) to provide further assurance to tax practitioners about how the new obligations are intended to operate:

- s 15 (about false or misleading statements); and
- s 45 (about keeping clients informed of relevant matters).

The Amending Instrument also makes small refinements to sections 20, 25, 30 and 40 to remove ambiguity and make clear the intent and scope of the provisions.

## Commonwealth penalty units increased from \$313 to \$330

The [Crimes and Other Legislation Amendment \(Omnibus No. 1\) Bill 2024](#) has finally passed both houses of Parliament and awaits assent to become law.

Schedule 3 of the Bill amends s 4AA of the Crimes Act 1914 to increase the Commonwealth penalty unit from \$313 to \$330. On 1 July 2026 and every third 1 July following that, the dollar amount of the penalty will be indexed by the Consumer Price Index.

The new penalty amounts apply to offences committed on or after the 14th day after this Act

receives assent.

## Administrative Review Tribunal replaces AAT from Monday 14 October 2024

The new [Administrative Review Tribunal](#) (ART) will commence operation on Monday, 14 October 2024. It will replace the Administrative Appeals Tribunal (AAT).

The new Tribunal can review the same types of decisions as the AAT and will mostly work in the same way as the AAT. The [Administrative Review Tribunal \(Consequential and Transitional Provisions No. 1\) Rules 2024](#) ("the Rules") have been registered and are effective 14 October 2024. The Rules are technical in nature, and ensure that the transition from the AAT to the ART occurs smoothly and as intended.

## Updated ATO Practice Statements

The ATO has released updated versions of the following 3 practice statements:

- [PS LA 2007/7](#) Making default assessments of taxable income in respect of attributable income;
- [PS LA 2008/9](#) GST "revenue-neutral" corrections; and
- [PS LA 2021/3](#) Remission of additional superannuation guarantee charge.

Each practice statement has been revised and updated to conform with the ATO's current style and accessibility requirements. There are no changes to the ATO's approach.

## Personal financial advice fees paid by superannuation funds – claiming deductions and PAYG withholding obligations

The ATO have advised that 'following the outcome from earlier consultation [202407] Delivering Better Financial Outcomes (Quality of Advice) – Recommendation 7, the ATO is developing a Practical Compliance Guideline to provide superannuation funds with a compliance approach in relation to the amendments made to the *Income Tax Assessment Act* 1997 (ITAA 1997) under Schedule 1 of the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act* 2024 (the Act).

The amendments under Schedule 1 of the Act provide a legal basis for payment of advice fees from a member's superannuation account and clarify the associated tax consequences.

The ATO is seeking feedback on our proposed compliance approach for:

- working out the income tax deduction under item 5 of the table in subsection 295-490(1) of the ITAA 1997
- historical PAYG withholding obligations under paragraph 307-10(e) of the ITAA 1997.

Feedback from superannuation industry representatives will assist to refine and enhance the guidance before the draft is published for public consultation.'

You can read more [here](#)

## ATO nudge pilot on employers' super guarantee obligations

The ATO have said that 'this enables us to create a view of employees' superannuation guarantee (SG) data provided by all super funds and employers in one place. By doing so, we can follow up employer non-compliance more proactively.

While we already use these data sets, this provides us with an improved ability to identify a range of behaviours that drive non-compliance. We can tailor our interventions for the behaviours we see, including late payment, underpayment, and non-payment of super guarantee.

We will use this data to:

- contact employers who are not meeting their obligations earlier, with improved messaging
- identify trends of incorrect reporting or issues related to information reported
- take action to help employers and funds to get it right
- improve any systemic data quality issues.

Most importantly, we continue to support employers to understand their obligations and take action to correct issues when mistakes occur.

### *What you need to do*

STP data is now a critical component of the tax and superannuation systems and is being used in real time for several purposes. That's why it's more important than ever to:

- keep good records – this is not only a legal requirement, but it also makes good business sense. It allows you as an employer to make sure that what you report is correct
- ensure your reporting and payments are timely and accurate. If you find that you make a mistake, take action to correct it as soon as you notice it. This will mean that we don't contact you unnecessarily
- understand and meet your payroll obligations
- remember that SG payments need to be received by the employee's super fund on or before the due date. If you use a commercial clearing house, it may take longer for the payment to get to the employee's account. Ensure you know how long this takes, so it is not late
- check that your payments are SuperStream compliant. SuperStream is the way employers must pay SG contributions to funds
- keep up to date on the latest announcements on tax and superannuation law and policy

You can read more [here](#)

## Administrative Review Tribunal commenced 14 October 2024

The ART commenced on **14 October 2024** and will be user-focused, efficient, accessible, independent, and fair. The current AAT ceased operations when the ART commenced.

### *Key features of the reform*

The ART is the result of a significant reform to Australia's system of administrative review that will:

- implement a transparent and merit-based appointments process
- appoint additional members to address existing backlogs
- implement sustainable funding arrangements
- implement a single, updated case management system to address critical business risks
- introduce procedural efficiencies and process improvements
- implement support services and emphasise early resolution where possible.

### *Passage of Legislation*

The Administrative Review Tribunal Act 2024 (ART Act), which establishes the ART, has now received Royal Assent.

The ART Bill passed the Parliament on 28 May 2024 and became an Act of Parliament on 3 June 2024.

Consequential and Transitional Provisions Bills No. 1 and No. 2 passed the Parliament on 16 May 2024 and became Acts of Parliament on 31 May 2024.

- the [Administrative Review Tribunal Act 2024](#) (ART Act) establishes the new Tribunal and re-establishes the Administrative Review Council
- the [Administrative Review Tribunal \(Consequential and Transitional Provisions No. 1\) Act 2024](#) (Consequential Act 1) abolishes the AAT, makes amendments to 138 Commonwealth Acts (covering around 93% of the AAT's current caseload) to ensure that existing legislation operates as intended for the new ART, and will enable the transition of AAT staff, operations and matters to the ART
- the [Administrative Review Tribunal \(Consequential and Transitional Provisions No. 2\) Act 2024](#), (Consequential Act 2) makes amendments to 110 Commonwealth Acts (including amendments to a number of Commonwealth Acts requiring state and territory consultation) to ensure continuity for the ART and its users.

### *For further information*

For more information on key features of the new ART, as well as detail on parliamentary consideration of the Acts, refer to the [overview of the Administrative Review Tribunal legislation](#).



## **ATO Update: We're changing our approach to collecting unpaid tax and super**

'Not paying tax affects everyone, and it's important we take action to help prevent businesses from putting other small businesses and employees at risk. Businesses that act early are often better placed to get back on track and sustainably manage their finances.

We're making it fairer for businesses that do the right thing, as we change our approach to collecting unpaid tax and super. We are now focusing on businesses who refuse to engage with us and continue to ignore our SMS and letter reminders.

This means you may see us taking different steps to those you have seen in the past. This is a deliberate and targeted approach, taking into account compliance history:

- For businesses big and small, who don't engage with us or set up a payment plan for unpaid GST, pay as you go (PAYG) withholding or employee super, we will move more quickly to firmer actions such as Director Penalty Notices (DPNs) and garnishees.
- Directors of multiple companies who allow amounts of GST, PAYG withholding and employee super to go unpaid, and do not engage with us, can expect us to look at their debts more holistically. These directors can expect to receive DPNs capturing the total value of these amounts across all related entities. If these directors don't take action, we can recover these amounts directly from them, putting their assets at risk.

As we change our approach to collecting unpaid tax and super, we're making it fairer for compliant businesses that do the right thing and fulfil their tax obligations.

This approach may impact some of your business clients who have not responded to our past engagement attempts.

To prevent these firmer actions, businesses should take action now to pay in full or set up a payment plan.

### *What can tax professionals do to assist us in our approach?*

For taxpayers who are able to pay on time, please encourage your clients to prioritise their tax and super obligations to prevent interest or firmer collection action by the ATO.

For taxpayers unable to pay in full and on time, we encourage tax professionals to continue to highlight the options available for their business clients, including payment plans. As you are aware tax professionals may even be able to set up a payment plan online through online services for agents if their client's debt is less than \$200,000, or your clients can also do this directly through online services for business.

The key message we would like to ask tax professionals to pass onto their clients is, if they can pay, please do and if they can't pay, don't ignore it - act now to check if you can put in place a payment plan online or reach out to us early for help.

Tax professionals and their clients can find out more about what happens [if they don't pay](#) on our website'



## **SUPERANNUATION**

### **Superannuation calculators and retirement estimates - updated ASIC relief instrument**

ASIC has registered updated [ASIC Corporations \(Superannuation Calculators and Retirement Estimates\) Instrument 2022/603](#) ("the Relief Instrument"), which applies to persons who provide financial product advice through, or through making available, a superannuation calculator or retirement estimate. The updated Relief Instrument is effective 11 September 2024.

The Relief Instrument has been updated to:

- revise the default inflation rate used to calculate the present value (applying to the accumulation phase) of a superannuation calculation or retirement estimate from 4.0% per year to 3.7% per year; and
- introduce a transitional period from 11 September 2024 to 31 December 2024, to allow providers of superannuation calculators and retirement estimates to 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.

See also:

- [ASIC media release ASIC proposes update to superannuation forecasts relief instrument](#) (5 July 2024); and
- [ASIC Corporations \(Amendment\) Instrument 2024/733](#) (commenced 11 September 2024).

## **FINANCIAL SERVICES**

### **ASIC update: Licensing and professional registration activities**

ASIC has released [Report 797 Licensing and professional registration activities: 2024 update \(REP 797\)](#). This report is for AFS licensees, credit licensees, auditors, lawyers, service providers and financial services industry professionals that are interested in the licensing and professional registration functions of ASIC.

The report outlines key issues, new and proposed changes to licensing processes, and other work ASIC has undertaken that affects licensees. It also provides information and data on licensing and registration applications from the 2023-24 financial year.

## **REGULATOR NEWS**

### **ASIC News**

ASIC has released the following updates in its Newsroom section:

- [11 October 2024 – MEDIA RELEASE – ASIC cancels two Australian financial services licences and 11 Australian credit licences](#) – ASIC has cancelled the licences of a number of licensees because of various transgressions of their obligations to maintain their membership with the Australian Financial Complaints Authority, or failure to lodge certificates and financial statements or pay levies. To retain a licence, it is also necessary to continue to carry on a financial services business or credit activities.
- [11 October 2024 – NEWS ITEM – ASIC issues 2023-24 update on licensing and professional registration activities](#) – ASIC has issued Report 797 *Licensing and professional registration activities: 2024 update* to advise of major changes to licensing processes. The new report provides guidance to holders of credit licences and Australian financial services licences about its processes. The report covers emerging issues such as cryptocurrency assets, payment systems and Buy Now Pay Later services.
- [9 October 2024 – MEDIA RELEASE – ASIC bans financial adviser John Hazell for two years](#) – John Hazell, former authorised representative of Richmond Partners Pty Ltd has been banned from providing financial services for two years. ASIC drew on information from the Tax Practitioners Board about Mr Hazell's misleading statements to retain his registration and decided that he was likely to contravene his obligations as a financial adviser.
- [9 October 2024 – MEDIA RELEASE – ASIC cancels licence of Ferratum Australia Pty Ltd](#) – ASIC has cancelled the Australian credit licence of Ferratum Australia Pty Ltd (in liq). On 30 April 2024, AFCA made a determination against Ferratum which it failed to pay. The Compensation Scheme of Last Resort, which has been in operation since April, paid compensation on 18 September 2024. Where AFCA makes a determination against a licence-holder and the CSLR compensates a complainant, ASIC must cancel the licence. This is the first instance of ASIC cancelling a credit licence following a compensation payment.
- [4 October 2024 – MEDIA RELEASE – Federal Court appoints liquidators to Global Capital Property Fund](#) – In the Federal Court of Australia, Neskovic J ordered that Global Capital Property Fund Ltd be wound up on just and equitable grounds under s 461(1)(k) of the *Corporations Act 2001* (Cth). Liquidators have been appointed following ASIC's application. ASIC's investigation into GCPF and United Global Capital Pty Ltd, its financial services licensee, will continue. The licence was cancelled in June 2024.
- [4 October 2024 – MEDIA RELEASE – Charges against former Macquarie adviser dismissed](#) – Charges in the Brisbane Magistrate's Court against former Macquarie financial adviser Warren Scott Acworth have been dismissed.

## Proposed legislative amendments, government announcements and consultations

- [11 October 2024 – LEGISLATION – Administrative Review Tribunal to commence operations](#) – The Administrative Appeals Tribunal will be abolished and replaced by the Administrative Review Tribunal from 14 October 2024. Consequential amendments to the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth) and the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017* (Cth), brought by the *Administrative Review Tribunal (Consequential and Transitional Provisions No 1) Act 2024* (Cth) will take effect from that date.
- [10 October 2024 - LEGISLATION – Treasury Laws Amendment \(Mergers and](#)

[Acquisitions Reform\) Bill 2024 \(Cth\)](#) – This bill was introduced in the House of Representatives. The bill proposes significant amendments to Australia's merger review mechanism. The proposed amendments to the *Corporations Act 2001* (Cth) relate to transfers of shares in the business of a licensed clearing and settlement facility under Div 4 of Pt 7.3B and would take effect on 1 July 2025.

- [10 October 2024 – LEGISLATION – Treasury Laws Amendment \(Better Targeted Superannuation Concessions and Other Measures\) Bill 2023 \(Cth\)](#) – This bill was passed by the House of Representatives on 9 October 2024 and introduced to the Senate the following day. Among other things, it proposes to amend the *Corporations Act 2001* (Cth) to exempt certain foreign financial services providers from being required to hold a licence. If passed, those amendments would take effect from 1 April 2025.