

# Monthly Tax Update

In this edition of Andersen in Australia's **Monthly Tax Update**, we provide recent legislative updates and outline the latest developments in the areas of corporate tax, individual tax, indirect tax and international tax. We also examine the ATO's recent activities, publications, rulings and other guidelines and discuss the latest Australian tax cases.

## Legislation Update

Since our last Monthly Tax Update, the following Bills have received Royal Assent and are now law.

### Bill to enhance IGTO powers

The **Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Bill 2024** has received Royal Assent as Act No 7 of 2025. The Act contains amendments to strengthen and modernise the oversight powers of the Commonwealth Ombudsman and Inspector-General of Taxation and Taxation Ombudsman (IGTO).

The Act amends the *Inspector-General of Taxation Act 2003* to:

- impose a statutory duty on agency heads and their staff to use their best endeavours to assist the IGTO in the performance of their functions;
- enhance the IGTO's powers to obtain full, free and direct access to agency records by introducing a provision equivalent to s 33(3) of the *Auditor-General Act 1997*, requiring agencies to provide all reasonable facilities and assistance, and
- provide the IGTO with a power to obtain access to documents and other records by remote means, with a corresponding requirement for agencies to provide reasonable facilities and assistance to the IGTO in the exercise of this power.

The Act also makes other amendments to the *Ombudsman Act 1976* in relation to the powers and capability of the Commonwealth Ombudsman.

The Act implements the government's response to recommendations 21.1 and 21.2 of the **Report of the Royal Commission into the Robodebt Scheme**. These recommendations aim to ensure Commonwealth agencies are subject to stronger and more rigorous scrutiny.

The amendments apply to any investigations on foot after commencement of the Act.

### Bill to establish tax incentives for hydrogen and critical minerals

The **Future Made in Australia (Production Tax Credits and Other Measures) Bill 2024** (the Bill) has received Royal Assent as Act No 9 of 2025.

The Act establishes new tax offsets for hydrogen production and critical minerals. The Bill was passed with amendments by the Greens to exclude uranium mining from receiving taxpayer funding agreed to.

## Legislation Update (Cont.)

### ART miscellaneous measures Bill

A part of a package of legislation which is designed to replace the Administrative Appeals Tribunal with the Administrative Review Tribunal is now law.

The **Administrative Review Tribunal (Miscellaneous Measures) Bill 2024** received Royal Assent as Act No 14 of 2025 on 20 February 2025. This bill makes consequential and technical amendments arising from the enactment of the Administrative Review Tribunal Act 2024. It also repeals the Tribunals Amalgamation Act 2015.

## Other updates

### Audit Office publishes assessment of ATO's AI governance framework

The Australian National Audit Office (ANAO) has published its assessment report on whether the Australian Taxation Office (ATO) has "effective arrangements in place to support its adoption of artificial intelligence (AI)."

In its [Governance of Artificial Intelligence at the Australian Taxation Office](#) report, the ANAO has found that the ATO has "partly effective arrangements in place to support the adoption of AI", including arrangements for:

- governance;
- design, development and deployment; and
- monitoring, evaluation and reporting.

The report also presents seven recommendations to assist the ATO in further strengthening its AI governance. According to the ANAO, the ATO's primary use of AI involves AI models that it has developed in-house, along with publicly available generative AI tools that it has assessed as low-risk and approved for use.

In its response to the report, the ATO states that it has agreed to all recommendations in full and will continue to enhance its AI frameworks. For further details on the ATO's response, please refer [here](#).

For further information, please refer [here](#).

### Minor updates to TPB information sheets

The Tax Practitioners Board (the TPB) has updated its information sheets to include references to the current versions of the standards from the Accounting Professional and Ethical Standards Board:

- [TPB\(I\) 17/2013 Code of Professional Conduct – Reasonable care to ascertain a client's state of affairs](#)
- [TPB\(I\) 18/2013 Code of Professional Conduct – Reasonable care to ensure taxation laws are applied correctly](#), and
- [TPB\(I\) 19/2014 Code of Professional Conduct – Managing conflicts of interest](#).

## Other updates (Cont.)

### Corrections made Code of Professional Conduct determination

The [Tax Agent Services \(Code of Professional Conduct\) Determination 2024](#) (the Determination) has been updated to correct a typographical error.

Item 6 of the [Treasury Laws Amendment \(Miscellaneous and Technical Amendment No 1\) Instrument 2025](#) corrects a typographical error in a cross-reference in the transitional provisions of s 115(1) of the Determination to s 45(1)(d) instead of s 45(1)(c). The amendment confirms that s 45 of the Determination applies only in relation to events that have arisen on or after 1 July 2022.

### Federal Government's temporary ban on foreign purchases of established dwellings

The federal government via the Minister for Housing has announced that it will ban foreign investors from buying established dwellings for at least 2 years.

Foreign investor purchases of established dwellings will be banned from 1 April 2025 to 31 March 2027, unless an exception applies. A review will be undertaken to determine whether it should be extended beyond this point.

The Government will focus on foreign investors who "have already acquired or are planning to acquire vacant residential or non-residential land" in Australia, to ensure they comply with the rules requiring the land to be put to "productive use within

# Monthly Tax Update (Cont.)

reasonable timeframes."

To "enforce the ban and enhance screening of foreign investment proposals relating to residential property", Dr Chalmers said that the Australian Taxation Office (ATO) will be provided with \$5.7 million over four years from 2025-26 to bolster its foreign investment compliance team.

The government has also announced a crack down on foreign land banking. An additional \$8.9 million will be allocated to the ATO and Treasury over four years from 2025-26, with a further \$1.9 million annually from 2029-30, to "implement an audit program and enhance their compliance approach" in targeting foreign investor land banking.

For further information, please refer to [Treasury website](#).

## OECD Updates

OECD publishes Secretary-General report on international tax co-operation developments

The Secretary-General of the Organisation for Economic Co-operation and Development (OECD) has released a report that sets out recent developments in international tax co-operation, including the OECD's support of G20 priorities such as the implementation of the BEPS minimum standards, the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, and tax transparency, as well as updates on initiatives to enhance tax certainty, and tax administration.

The report was prepared ahead of this week's meeting of G20 Finance Ministers and Central Bank Governors in South Africa. More information is available on the [OECD website](#).

## ATO Rulings and Activity

Thin capitalisation test choices guidance

The ATO has updated its guidance in respect of the choice to apply the group ratio test or third party debt test pursuant to Division 820 of the Income Tax Assessment Act 1997 (thin capitalisation test choice).

The ATO website has been updated to now feature additional ATO guidance regarding:

- revocation requests for the 2024 income year due to changes in finalised ATO views; and
- extension of time requests for the 2024 income year due to changes in finalised ATO views.

The updated guidance is provided along with the finalisation of draft ATO rulings, [Draft Taxation Ruling TR 2024/D3 Income tax: aspects of the third party debt test in Subdivision 820-EAB of the Income Tax Assessment Act 1997](#) and Schedules 3 and 4 of the [Draft Practical Compliance Guideline PCG 2024/D3 Restructures and the thin capitalisation and debt deduction creation rules - ATO compliance approach](#).

The ATO notes that the website will be also be further updated soon to include:

- an approved form for revocations
- guidance on how to submit these requests.

For further information, please refer to [ATO website](#).

## ATO draft guidance on application of Pt IVA to certain early stage innovation company investment arrangements

The ATO has expressed its preliminary view that, while the application of Part IVA of the ITAA 1936 to any specific arrangement requires a thorough consideration of all relevant circumstances, Part IVA is likely to apply to arrangements comparable to those outlined in the Taxpayer Alert [TA 2024/1](#).

Taxpayer Alert [TA 2024/1](#), which addresses the early stage investor tax offset claimed through circular financing arrangements, highlights concerns about schemes designed to artificially meet the conditions for claiming the maximum tax offset. These arrangements enable individuals to benefit with little to no risk on their investment.

Draft Taxation Determination [TD 2025/D1](#) states that if Part IVA applies, the qualification in paragraph (e) of table item 1 of section 170(1) of the ITAA 1936 will typically apply, thereby disqualifying an individual from the typical 2-year period of review limitation.

Once finalised, the determination is proposed to apply retrospectively.

Comments on draft [TD 2025/D1](#) must be submitted prior to 28 March 2025.

## Practice statement on extension of time to apply for a director identification number

The ATO has released a practice statement outlining the use of the Registrar's power to extend the time for an eligible officer to apply for a director identification number.

Law Administration Practice Statement [PS LA 2025/1](#) provides information for ATO staff on director identification number obligations, how extension of time requests should be made, and what the Registrar may consider when deciding whether it is reasonable to grant an extension of time to apply for a director identification number.

## ATO update on common misunderstandings of Division 7A application

The ATO has released a guide on its website that debunks common myths about Division 7A to improve taxpayer understanding. Most errors the ATO sees that result in the application of Division 7A are relatively simple including:

- not recognising that company can't be accessed for personal use without tax consequences;
- loans being made without complying loan agreements;
- applying the wrong benchmark interest rate.

These errors are often a result of commonly held myths held about Division 7A and its operation.

The ATO reiterates that Division 7A is an integrity rule that prevents private company profits from being provided to shareholders or their associates tax-free.

For more information, please refer to [ATO website](#).

## Taxpayer Alert on MIT: restructures to access the managed investment trust withholding regime

The ATO has released a taxpayer alert regarding concerns about schemes designed to restructure an existing trust or other inward investment structures inappropriately to access the managed investment trust (MIT) withholding regime, including the deemed capital gains tax (CGT) treatment.

The new Taxpayer Alert [TA 2025/1](#) outlines how the ATO is currently reviewing arrangements that feature:

- an Australian entity holds passive assets, but does not meet the requirements to access the MIT withholding tax regime, for example, because:
  - it is not a trust (for example, it is a company that is not a corporate collective investment vehicle (CCIV));
  - it is a unit trust directly owned by a single unitholder (and therefore does not meet the requirements of being a managed investment scheme (MIS)); or
  - the management of the trust does not satisfy the requirements in section 275-35 of the Income Tax Assessment Act 1997 (ITAA 1997).

# Monthly Tax Update (Cont.)

- restructure steps are undertaken to seek to satisfy the requirements to access the MIT withholding tax regime, for example, by:
  - unnecessarily restructuring the ownership of the entity or underlying assets
  - altering arrangements so that the management of the trust is provided by an entity which meets the licencing requirements in section 275-35 of the ITAA 1997.
- the restructure steps are done for the purpose of accessing the MIT withholding regime.

The ATO also notes that it is aware of "existing MITs established for new inbound investments into Australia (rather than a restructure) that are indirectly owned by a single foreign entity covered by subsection 275-20(4) of the ITAA 1997." While the general anti-avoidance rules (Part IVA) may be a relevant factor, the ATO will not allocate its compliance resources to these structures if they were set up before the publication of this alert, unless there is significant new investment or a change in ownership.

The ATO states that taxpayers and advisers involved in these types of arrangements will face increased scrutiny and encourages those who have entered into, or are considering, such arrangements to reach out to the ATO.

## Draft guidance on disregarding certain payments under s 109R anti-refinancing rule

The ATO has outlined its preliminary view on the interaction between sections 109R and 109T of the ITAA 1936, regarding whether section 109R can disregard loan repayments in cases where a notional deemed loan arises due to sections 109T and 109W.

Section 109R is designed to prevent shareholders or their associates from circumventing the operation of Division 7A by repaying a loan or making a minimum yearly repayment, only to receive another loan from the same company.

The newly released Draft Taxation Determination **TD 2025/D2** sets out the ATO's view on the following 2 issues:

- Section 109R can apply to disregard certain loan repayments made to a private company where the repaying entity is taken to have obtained a loan from the company by the interposed entity rules per section 109T and 109W.
- Where a private company is taken to have made a notional loan under either section 109T and 109W, s 109R can apply to disregard certain repayments when determining how much loan has been repaid.

Accordingly, the ATO considers that section 109R can apply to disregard:

- an actual loan repayment, and
- a notional loan repayment.

The guidance notes that the ATO may also examine the application of Part IVA to arrangements where loans from a private company are refinanced with the main intention of obtaining a tax benefit.

When finalised, the determination is proposed to also apply retrospectively.

Any comments on draft **TD 2025/D2** must be submitted by 17 April 2025.

## Upcoming changes to 2025 RTP schedule

The ATO has released its instructions for the reportable tax position (RTP) schedule 2025, containing changes in the RTP schedule.

The release notes that the RTP schedule 2025 contains two new 'Category C' questions regarding the application of certain aspects of the 'liable entity' and 'hybrid payer' definitions, and restructure(s) in response to the debt deduction creation rules.

The RTP schedule 2025 also contains several changes to existing questions to "align with local file short form lodgement" and removes one question due to legislative changes.

For more information, please refer to [ATO website](#).

#### ATO moves non-compliant small businesses to monthly GST

The ATO has announced that, starting from 1 April 2025, it will be transitioning approximately 3,500 small businesses with a history of non-payment, late or non-lodgment, or incorrect reporting from quarterly to monthly GST reporting.

The ATO has advised that they will actively notify the impacted small businesses and their tax professionals when their GST reporting cycle is switched to monthly.

The change is aimed at improving compliance with GST obligations.

For more information, please refer to [ATO website](#).

#### ATO update: ATO moves 'harder and faster' on priority debt

In his recent opening statement to the Senate Economics Legislation Committee on 26 February 2025, the Commissioner of Taxation Rob Heferen outlined the ATO's priority debt, and its approach to collect it.

Mr Heferen outlined that the ATO is "moving harder and faster" to collect priority debt, such as unpaid superannuation guarantee, pay-as-you-go withholding, and GST, as well as tax debt from taxpayers who exhibit the most non-compliant behaviour.

Mr Heferen noted specifically that 22,000 taxpayers (of varying sizes) are responsible for \$11 billion of the total tax debt value, or 1 percent of the total debtors being responsible for 20 percent of tax debt.

For more information, please refer to [ATO website](#).

#### ATO to issue Section 20C notices to all superannuation funds

The ATO has released a reminder to all superannuation funds that it will be issuing Section 20C notices for the period 1 July 2024 to 31 December 2024, with a due date of 30 April 2025.

The ATO also advises that if there's an exceptional reason that will delay the reporting of any lodgement or payment components, the fund must ensure a deferral request is lodged for consideration via the Super Enquiry Service.

For more information, please refer to the [ATO website](#).

#### Tax consequences on sales of land including small-scale land subdivision

In order to assist tax payers with tax consequences of the sale of property, the ATO has updated its website with examples on the tax consequences of certain sales of land (including small-scale land subdivision).

The [Examples of tax consequences on sales of land including small-scale land subdivision](#) have been updated with additional detailed examples to complement upcoming updates to the ATO's web content on [Tax consequences on sales of small-scale land subdivisions](#).

The guidance considers the income tax (including CGT) and GST implications of the following examples:

- land acquired and held for long-term capital growth
- residential suburban block land subdivision
- property flipping (revenue)

# Monthly Tax Update (Cont.)

- property flipping (capital)
- mere realisation of a capital asset (capital), and
- beyond mere realisation of a capital asset (revenue).

The guidance should be read in conjunction with [Vacant land and subdividing](#) and [Tax consequences on sales of small-scale land subdivisions](#).

## ATO's updated practice statements

The ATO has provided updates to its law administration practice statement as to how it exercises the Commissioner of Taxation's discretion to retain a refund.

The update in [PS LA 2011/22](#) now includes a reference to [PS LA 2024/1 Suspected fraud involving unconnected third parties](#) when it comes to paying a refund to a third-party bank account. The reference to PS LA 2024/1 is meant to provide indicators of suspected fraud for comparison to ensure that the third-party bank account has a low risk of fraud.

In addition, the ATO has also updated the following law administration practice statements regarding certain procedures:

- [PS LA 1998/1 Law administration practice statements](#): the update includes procedures for maintaining practice statements and requirement for conformance monitoring.
- [PS LA 2006/17 Self-managed superannuation funds - disqualification of individuals to prohibit them from acting as a trustee of a self-managed superannuation fund](#): the update adds the requirement of publishing the details of the disqualification of an individual in the Federal Register of Legislation as a notifiable instrument, in accordance with disqualifying an individual under the Superannuation Industry (Supervision) Act 1993.

## Class rulings issued:

- Class Ruling [CR 2025/8](#) ConocoPhillips Australia Operations Pty Ltd – employee share scheme – Contributory Plan. This ruling applies from 1 July 2024 to 30 June 2029.
- Class Ruling [CR 2025/9](#) Bravura Solutions Limited – return of capital. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/10](#) Anteris Technologies Ltd – scrip for scrip roll-over for option holders. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/11](#) Anteris Technologies Ltd – employee share scheme – treatment of options under scheme of arrangement. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/12](#) Anteris Technologies Ltd – scrip for scrip roll-over for shareholders. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/13](#) Just Eggs Pty Limited – employee share scheme – reducing the minimum holding period. This ruling applies from 1 July 2023 to 30 June 2024.
- Class Ruling [CR 2025/14](#) SPC Global Ltd – scrip for scrip roll-over. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/15](#) Capitol Health Limited – scrip for scrip roll-over. This ruling applies from 1 July 2024 to 30 June 2025.

- Class Ruling [CR 2025/16](#) The Trustee for Protect Severance Scheme No 2 – workers in receipt of severance payments. This ruling applies from 1 January 2025 to 30 June 2030.
- Class Ruling [CR 2025/17](#) Leo Lithium Limited – return of capital and special dividend. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/18](#) Wellard Limited – return of capital. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/19](#) CW Group Holdings Limited – scrip for scrip roll-over. This ruling applies from 1 July 2024 to 30 June 2025.
- Class Ruling [CR 2025/20](#) National sporting organisations – financial support provided to elite athletes. This ruling applies from 6 March 2025 to 30 June 2029.
- Class Ruling [CR 2025/21](#) Premier Investments Limited – distribution of shares in Myer Holdings Limited. This ruling applies from 1 August 2024 to 31 July 2025.

Other rulings issued:

- Product Ruling [PR 2025/1](#) C2 Gateway Deferred Purchase Agreement. This ruling applies from 1 July 2025 only to the class of entities specified in the ruling that enter into the scheme from 1 July 2025 to 30 June 2028.
- [Erratum](#) to Class Ruling [CR 2025/4](#) to correct typographical and citation errors.

## Latest Australian Tax Cases

- Tax residency - In a case referred to the Tribunal by the Federal Court (2024 ATC; [2024] FCA 726), Mr. Quy, originally from Dubai and now residing in Thailand, was deemed an Australian resident under the domicile test. This was because he could not demonstrate having a "permanent place of abode" outside Australia during any of the relevant years. However, he was not classified as a resident under the ordinary concepts test, as had been previously determined. [*Quy v FC of T* 2025 ATC; [2025] ARTA 174, 28 February 2025.]
- Deduction claim - The Federal Court has rejected the claims of a taxpayer, which held a gaming operator's licence under the gaming machine duopoly in Victoria before 2012, that it had a "financial arrangement" that came into effect upon the expiry of its licence. The taxpayer argued it was entitled to deductions of \$1,491,309,000 under Div 230 of the ITAA 1997 for the "financial benefits" provided under the arrangement, even though a significant portion of this amount had already been deducted under s 8-1 of the ITAA 1997. The court ruled that the taxpayer did not have a "financial arrangement" as defined by s 230-45 at any relevant time and dismissed the appeal. [*Tabcorp Maxgaming Holdings Ltd v FC of T* 2025 ATC; [2025] FCA 115, 21 February 2025.]
- Termination payment - The Federal Court has ruled that a payment made to a school employee upon the termination of her employment, which resulted from the restructuring of her department, should be treated as a genuine redundancy payment rather than an employment termination payment. This decision was made even though the taxpayer had been offered a similar position at the school, albeit with reduced hours. [*Baya Casal v DFC of T* 2025 ATC; [2025] FCA 87, 18 February 2025.]
- PAYG obligations - A taxpayer company that paid the wages of individuals employed by a related entity has been unsuccessful in overturning administrative penalties imposed on the basis of recklessness in relation to its PAYG obligations. [*DJG Consulting Pty Ltd ATF David Gerrans Family Trust v FC of T* 2025 ATC; [2025] ARTA 84, 5 February 2025.]



# Monthly Tax Update (Cont.)

If you would like more information or would like to discuss this tax update, please contact:

Cameron Allen  
Office Managing Director  
Tel: +61 (0) 3 9939 4488  
Tel: +61 (0) 2 8226 8756  
Email: [cameron.allen@au.Andersen.com](mailto:cameron.allen@au.Andersen.com)  
MELBOURNE | SYDNEY

[www.au.Andersen.com](http://www.au.Andersen.com)

This and other Andersen Australia Publications are available on [www.au.Andersen.com](http://www.au.Andersen.com)

This document is of a general nature and is not intended to be relied upon as, nor be a substitute for, specific professional advice. We accept no responsibility for any loss suffered as a result of reliance placed on this document by any party. Please contact your Andersen adviser if you wish to discuss how the topics covered in this document will affect your specific circumstances.

Liability limited by a scheme approved under Professional Standards Legislation.

© ANDERSEN AUSTRALIA PTY LTD, March 2025. All rights reserved.