April 2025

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, Federal Budget highlights, publications, rulings and other guidelines and discuss the latest Australian tax cases.

2025/26 Federal Budget

The 2025/26 Federal Budget was handed down by the Treasurer Dr. Jim Chalmers on 25 March 2025. As the Government's final Budget before the upcoming federal election, the measures were framed around key priorities: targeted cost of living relief, housing supply, education and continued investment in essential services.

Please refer here for Andersen's Federal Budget Report for further details on the Budget.

Legislation Update

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

Treasury Laws Amendment (More Cost of Living Relief) Bill 2025

The Treasury Laws Amendment (More Cost of Living Relief) Bill2025, has received Royal Assent as Act No 28 of 2025, introducing the personal income tax cuts and changes to the Medicare levy thresholds announced in the Budget, effective from 1 July 2026.

The key tax changes are:

- The 16% personal income tax rate for Australian resident taxpayers will be reduced to 15% starting from the 2026–27 income year.
- The rate will further decrease to 14% for the 2027–28 income year and subsequent years.

These tax cuts are in addition to the first round of cuts that began on 1 July 2024, and the changes will be implemented in two stages: one for the 2026–27 income year and another for the 2027–28 income year and beyond.

Schedule 2 to the Treasury Laws Amendment (More Cost of Living Relief) Act 2025 introduced amendments to the Medicare Levy Act 1986 and the A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999. These amendments increased the following thresholds in line with changes in the Consumer Price Index (CPI), retroactively from the 2024–25 income year:

- Medicare levy low-income thresholds for individuals and families, including the dependent child/student component of the family threshold.
- Medicare levy low-income thresholds for individuals and families eligible for the Senior Australian and Pensioner Tax Offset (SAPTO), including the dependent child/student component of the family threshold.
- The surcharge low-income threshold.

These changes have taken effect the day after the Act receives assent.

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Legislation Update (Cont.)

Treasury laws Amendment (Tax Incentives and Integrity) Bill 2025

The multipurpose Bill which contained several tax measuring, including the tightening of the definition of a "fuel-efficient vehicle" , the updating of the indexation rates for luxury car tax (LCT) thresholds, the denial deductions for interest charges, the extension of the ATO notification period for retaining refunds and continuation of the $20,000 instant asset write-off for small business entities for an additional 12 months until 30 June 2025 has received Royal Assent on 27 March 2025 as Act No 29 of 2025.

The Treasury laws Amendment (Tax Incentives and Integrity) Act 2024:

- tightens the definition of a fuel-efficient vehicle, and to align the indexation rates for luxury car tax (LCT) thresholds;
- denies deductions for Australian Taxation Office (ATO) interest charges, specifically the general interest charge (GIC) and shortfall interest charge (SIC), incurred in income years starting on or after 1 July 2025;
- extends from 14 to 30 days the period within which the Commissioner of Taxation must notify a taxpayer of their decision to retain a refund amount arising from a business activity statement (BAS) or another notification under the BAS provisions for verification of information; and
- fully implements the instant asset write-off for small businesses for a further 12 months.

The amendments to the original bill, introduced by the Federal Government in February, extend the instant asset write-off for small businesses (with an annual turnover of less than $10 million) until 30 June 2025.

Other Legislation Update

Bills lapse with calling of federal election

With the calling of the federal election by the Prime Minister via his visit to the Governor General, parliament has been prorogued and the House of Representatives dissolved on 28 March 2025.

The following unpassed tax and superannuation Bills before the Senate will lapse immediately before the commencement of the next parliament:

- Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023 and the Superannuation (Better Targeted Superannuation Concessions) Imposition Bill 2023 - proposed to reduce the tax concessions available to individuals with total superannuation balances exceeding $3 million.

- Treasury Laws Amendment (Miscellaneous Measures) Bill 2024 - proposed to amend the Australian Charities and Not-for-profits Commission Act 2012 to provide 2 new exceptions for the public disclosure of protected ACNC information about new and ongoing investigations, make minor and technical amendments to Treasury portfolio legislation including to the A New Tax System (Goods and Services Tax Act) 1999, Fuel Tax Act 2006 and the Taxation Administration Act 1953 and amend the Payment Systems (Regulation) Act 1998 to modernise the payments regulatory framework.

There were no unpassed Bills containing tax or superannuation measures before the House of Representatives.

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Legislation Update (Cont.)

Exposure draft for payday super and related measures

Treasury has finally released the exposure draft materials in relation to the Payday Super measure previously announced in the 2023–24 Budget, along with the other amendments to the superannuation guarantee (SG) regime, including relating to advertising and employee onboarding.

- Payday super

The Superannuation Guarantee Charge Amendment Bill 2025 and Treasury Laws Amendment Bill 2025: SG reforms to address unpaid super outline the legislation of the proposed amendments to align the payment of SG contributions into employee funds for employees to the day on which the employee is paid salary or wages. The measure is proposed to apply from 1 July 2026.

Broadly, the amendments to the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Act 1992* (SGAA) will:

- determine any SG shortfalls by reference to whether contributions have been received by a superannuation fund in relation to the day on which employees are paid qualifying earnings, rather than on a quarterly basis
- update the calculation of the corresponding SG charge and impose a late payment penalty when an SG charge remains outstanding after a specified period of time
- make employer disclosures of any SG shortfall amounts voluntary, before the Commissioner issues a notice of assessment
- update the imposition of the choice loading component of the SG charge where an employer fails to comply with the choice of fund requirements, and
- make other amendments relating to administration (including payment and apportionment of the SG charge).

- Ban on advertising during employee onboarding

The Treasury Laws Amendment Bill 2025: ban on advertising super funds during onboarding imposes a ban on advertising certain financial products to employees during the employee onboarding process, with certain limited exceptions.

- Employee onboarding

The Treasury Laws Amendment Bill 2025: employee onboarding reforms outlines amendments to the SGAA to provide greater flexibility for when an employer may request details of an employee's stapled superannuation fund from the Commissioner during the onboarding process. The changes are intended to allow employers to more efficiently identify a new employee's superannuation fund for making SG contributions on time.

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Legislation Update (Cont.)

Additional affordable dwelling requirements for build to rent developments — instrument made

A new legislative instrument has been released which introduces additional requirements for a dwelling to be classified as an "affordable dwelling" in the context of Build to Rent (BTR) developments, in order to qualify for tax concessions under the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024.

In order to be eligible for tax concessions (such as higher capital works deductions and lower withholding taxes), BTR developments must be "active," meaning at least 10% of the total dwellings must be affordable. The Income Tax Assessment (Build to Rent Developments) Amendment (Expanding Affordability Requirements) Determination 2025 amends the previous rules to specify that:

- Affordable dwellings must be either "moderate-income" or "lower-income" dwellings.
- At least 2% of the total dwellings must be lower-income dwellings.
- BTR owners must engage an eligible community housing provider (CHP) to help identify prospective tenants and confirm eligibility for affordable dwellings (with limited exceptions).
- Tenants must be identified by a CHP, considering the specific income criteria for each affordable dwelling.

These changes took effect from 29 March 2025, with a 12-month transition period to allow BTR owners to comply.

The instrument commenced on 29 March 2025.

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Other updates (Cont.)

Amendments to clarify managed investment trust rules

The Treasurer has announced amendments to clarify that trusts which are ultimately owned by a single widely-held investor are able to access the managed investment trust (MIT) concessions.

This targeted policy change reaffirms that genuine, foreign based widely-held investors, such as pension funds, can access concessional withholding tax rates on eligible distributions to members via managed investment trusts (MITs).

Current industry practice on the operation of the MIT pooling requirements will continue to apply.

It should be noted that the amendments will not affect the ATO's current power to take action under the general anti-avoidance rules in Pt IVA of ITAA as set out in ATO's Taxpayer Alert TA 2025/1.

When enacted, the amendments will apply to fund payments made after 13 March 2025.

For further details, please refer here.

Updates to foreign investment framework guidance

Treasury has updated its online guidance regarding the foreign investment framework, in order to provide further information on:

- the temporary ban on foreign resident purchases of established dwellings announced on 16 February 2025
- foreign investment in new and established build to rent developments
- partial refunds of application fees for unsuccessful proposals in competitive bid processes, and
- tax arrangements that will attract greater scrutiny in the foreign investment assessment process.

Guidance Note 12, on when additional scrutiny and tax conditions will be applied to foreign investment proposals, now includes examples of arrangements that display specific tax issues of interest to the ATO. The updated guidance also reflects the government's current approach to tax risk assessment and imposition of tax conditions to certain investments.

For further information, please refer to the Treasury website.

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OECD Updates

OECD Economic Outlook, Interim Report March 2025

The OECD (The Organisation for Economic Cooperation and Development) published an interim report in March 2025 which indicates a summary of the following topics;

- Global output growth remained resilient in 2024, with robust expansions in the United States and several large emerging-market economies, including China.
- Recent activity indicators point to a softening of global growth prospects. Business and consumer sentiment have weakened in some countries, and indicators of economic policy uncertainty have risen markedly around the world.
- Significant changes have occurred in trade policies that if sustained would hit global growth and raise inflation.
- Inflationary pressures continue to linger in many economies. Services inflation is still elevated, with labour markets tight, and goods inflation is picking up from very low levels.
- Global GDP growth is projected to moderate from 3.2% in 2024, to 3.1% in 2025 and 3.0% in 2026, with higher trade barriers in several G20 economies and increased geopolitical and policy uncertainty weighing on investment and household spending.
- Central banks should remain vigilant given heightened uncertainty and the potential for higher trade costs to push up wage and price pressures. Provided inflation expectations remain well anchored, and trade tensions do not intensify further, policy rate reductions should continue in economies in which underlying inflation is projected to moderate or remain subdued.
- Countries need to find ways of addressing their concerns together within the global trading system. Living standards would benefit from coupling these measures with efforts to strengthen the resilience of supply chains, as well as regulatory reforms that promote dynamic product and labour markets and policies to encourage skill upgrades.

More information is available on the OECD website.

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ATO Rulings and Activity

Changes to record keeping requirements for 2025 FBT returns

With the end of the 2025 fringe benefits tax (FBT) year on 31 March, the ATO reminded employers of changes hat might impact their FBT obligations this year.

Plug-in hybrid electric vehicles (PHEVs) will no longer be classified as zero or low emissions vehicles under FBT law. This means that PHEVs will no longer qualify for the electric cars exemption (Fringe Benefits Tax Assessment Act 1986 (FBTAA) s 8A). However, an employer can continue to apply the exemption if both of the following requirements are met:

- The PHEV was used, or available for use, before 1 April 2025 (and that use, or availability for use, was exempt).
- There is a financially binding commitment to continue providing private use of the vehicle or making the vehicle available for private use on and after 1 April 2025 (but any optional extension of the agreement is not considered binding).

For the 2025 FBT year and onwards, employers can now use existing records instead of the need to obtain travel diaries and complete declarations for certain fringe benefits. Clients may prefer to continue using the current approved declaration and travel diaries forms or have the choice of using a combination of both methods for each employee and each benefit.

If employers are adopting the use of existing corporate records, they do still need to meet the minimum required information at the time of lodging the FBT return.

For further information, please refer to ATO website.

ATO's focus areas for small businesses in 2025

The ATO has shared specific risk areas that they are focusing on in 2025 in relation to small businesses.The ATO believes these are the areas where small businesses are getting it wrong, being opportunistic or in come limited cases deliberately misreporting on an ongoing basis.

The areas of concern for small businesses to the ATO right now are:

- contractors omitting income
- history of failing to comply with GST obligations, and
- incorrect claims of the small business boost measures.

Small businesses that have a history of non-compliance such as missing payments, late or non-lodgment of BASs and reporting incorrect GST are currently a key focus of the ATO.

As previously flagged in a prior months tax update, from 1 April 2025, the ATO may move non-compliant small businesses from quarterly GST reporting to monthly reporting, in an effort to improve compliance with GST obligations and build good business habits.
For more information, please refer to.ATO website.

Monthly Tax Update

ATO Rulings and Activity (Cont.)

Draft instrument on PAYG withholding for bankrupt estates

The ATO has now issued a draft legislative instrument dealing with the varied pay as you go (PAYG) withholding rate for bankrupt estates.

This variation to the PAYG Withholding Variation: Variation of the amount to be withheld from certain payments made by external administrators and trustees of bankrupt estates aims to reduce the administrative burden when paying entitlements to employees of an entity under administration or bankruptcy.

The proposed instrument, Taxation Administration (Withholding Variation for Certain Payments Made by External Administrators and Trustees of Bankrupts' Estates) Legislative Instrument 2025, will replace the 2015 instrument, which is sunsetting on 1 October 2025. The draft instrument will maintain the same effect as the 2015 instrument, except for the withholding rate, which will be reduced from 34.5% to 32%. This updated rate has been selected as it reflects the mid-point tax rate starting from 1 July 2024.

Comments on the draft instrument and accompanying draft explanatory statement can be submitted until 11 April 2025. The draft instrument is proposed to commence on 1 July 2025.

For further information, please refer here.

CGT consequences of life interests in property

The ATO has issued an addendum to *Taxation Ruling* TR 2006/14 to include specific exceptions to CGT events for granny flat arrangements.

This Ruling considers the capital gains tax (CGT) consequences of creating life and remainder interests in property (whether between living persons or by testamentary provision) and subsequent dealings in those interests. The Ruling also considers the CGT impact of granting a lifetime right to reside in property.

The addendum outlines that the creation, variance or termination of an eligible granny flat arrangement is exempt from any CGT events as per Div 137 of the ITAA 1997.

The amendments also ensure currency of legislative and other citations, and make editorial changes where required to meet accessibility requirements.

This addendum applies from 12 March 2025.

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ATO Rulings and Activity (Cont.)

The ATO has released Draft updates to GST rulings to account for changes to the "connected with Australia" rules

The ATO is proposing updates be made to the following GST rulings:

- GSTR 2005/6 Goods and services tax: supplies of things (other than goods or real property) made to non-residents but provided to another entity in Australia, and
- GSTR 2007/2 Goods and services tax: supplies where effective use or enjoyment of the supply takes place outside Australia.

These draft updates are not due to recent law changes and do not change the ATO's existing view. They will:

- ensure the rulings reflect past law changes (made in 2016) under *Tax and Superannuation Laws Amendment (2016 Measures No 1) Act 2016*, in particular the changes to the "connected with Australia" rules, and
- simplify the rulings by making structural changes such as reducing the number of examples and removing duplicated content.

The closing date for comments is 9 May 2025.

GST ruling on improvements on the land

The ATO has updated *GST Ruling* GSTR 2006/6 to reflect the Full Federal Court's decision in *FC of T v Landcom* 2022 ATC ; [2022] FCAFC 204 on the application of the margin scheme provisions in the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

GSTR 2006/6 outlines the Commissioner's interpretation of the term "improvements on the land" for the purposes of Subdiv 38-N (grants of land by governments) and Div 75 (margin scheme for supplies of freehold interests) of the GST Act. Draft updates to the ruling were released for consultation in March 2024.

The addendum to GSTR 2006/6 updates the ruling to incorporate the Landcom decision, clarifying that each freehold land title must be considered individually when applying sections 38-445, 38-450, and 75-10(3) of the GST Act, including for long-term leases. The final updates to the ruling also provide additional guidance on the treatment of land supplied through a long-term lease in the ACT.

The addendum applies both before and after its date of issue. A compendium has been released on feedback received.

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ATO Rulings and Activity (Cont.)

ATO update: GIC and SIC rates for April to June 2025

The ATO has issued the general interest charge (GIC) rates and shortfall interest charge (SIC) rates for the period 1 April 2025 to 30 June 2025.
The rates are as follows:

- the GIC rate is 11.17%
- the GIC daily compounding rate is 0.03060274%

the SIC rate is 7.17%, and

- the SIC daily compounding rate is 0.01964383%.

The interest rate on overpayments, early payments and delayed refund interest is 4.17%.

For more information, please refer to ATO website.

Self-Managed Superannuation Fund - General Transfer Balance Cap to increase

With effect from 1 July 2025, the general transfer balance cap will increase from $1,900,000 to $2,000,000 as a result of indexation. The defined benefit income cap will also increase to $125,000 (from $118,750) for the 2025-26 income year.

For further information, please refer to the ATO website.

Class rulings issued:

- Class Ruling CR 2025/22 Suncorp Group Limited – special dividend, reduction of share capital and share consolidation. The ruling applies from 1 July 2024 to 30 June 2025.

- Class Ruling CR 2025/23 Latin Resources Limited – return of capital by in specie distribution of ESG Minerals Limited shares. The ruling applies from 1 July 2024 to 30 June 2025.

- Class Ruling CR 2025/24 Latin Resources Limited – scrip for scrip rollover. The ruling applies from 1 July 2024 to 30 June 2025.

- Class Ruling CR 2025/25 Auswide Bank Ltd – scheme of arrangement. This ruling applies from 1 July 2024 to 30 June 2025.

Other rulings issued:

- Product Ruling PR 2025/2 Yolla Producers Co-operative Society Ltd – Yolla Co-Op Prepayment Program. This Ruling applies from 12 March 2025.

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Latest Australian Tax Cases

- Default assessments - - The Full Federal Court has dismissed the taxpayers' appeal against a Federal Court decision ([2023] FCA 1260) that upheld an AAT decision (2022] AATA 686) affirming default assessments issued by the Commissioner. The taxpayers neither established that the AAT had erred in the discharge of its fact finding functions, nor discharged the burden of proof under s 14ZZK(b)(i) of the *Taxation Administration Act 1953* (TAA). [*McPartland v FC of T* [2025] FCAFC 23, 12 March 2025.]

- Onus to provide supporting documentation - The taxpayers have applied for special leave to appeal to the High Court from the Full Federal Court decision of *FC of T v Liang & Anor* 2025 ATC; [2025] FCAFC 4, which had allowed the Commissioner's appeal from the decision of Logan J reported at 2024 ATC; [2024] FCA 535. In that decision, Logan J had considered that the AAT, in upholding the Commissioner's assessments at first instance had failed to discharge its statutory function of merits review following its rejection of the taxpayers' evidence ([2023] AATA 4039). However, the full court unanimously overturned Logan J's decision. It found that the AAT had performed the task required of it and did not err in finding the taxpayers had failed to discharge their onus of proving that bank deposits were not income. [*FC of T v Liang & Anor* 2025 ATC]

- Employee Vs Contractor distinction - The Commissioner's appeal to the Federal Court from the AAT decision reported at 2024 ATC; [2024] AATA 3428 has been dismissed. Justice Logan held that, in finding a licensed plumber was not an employee within the extended definition of the term in s 12(3) of the *Superannuation Guarantee (Administration) Act 1992* (SGAA), the AAT had not conflated the test at common law with the test in s 12(3). Hoping to be third time lucky, the Commissioner has now appealed the primary judge's decision to the full court. *[FC of T v Hatfield Plumbing Pty Ltd ATF Peter Hatfield Trust 2025 ATC ; [2025] FCA 182, 14 February 2025.]*

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