

# Monthly Tax Update



March 2026

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

### Administrative Review Tribunal Amendment Bill now law

A Bill amending the Administrative Review Tribunal Act 2024 has passed Parliament and received Royal Assent on 9 February 2026 as the **Administrative Review Tribunal and Other Legislation Amendment Act 2026** (Act No 3 of 2026).

The amendments expand the circumstances in which the Administrative Review Tribunal (ART) may decide a matter without holding a hearing. The ART may now dispense with a hearing where the issues can be adequately resolved without the parties' attendance, if it is reasonable in the circumstances to do so, and the parties (other than non-participating parties) have been given a reasonable opportunity to make submissions which the ART has considered.

The new discretion is designed to provide greater procedural flexibility, particularly for matters involving straightforward facts or objective criteria that can be determined "on the papers," while maintaining safeguards to ensure parties are given a fair opportunity to present their case.

The amendments apply to applications made on or after commencement, and to earlier applications where a decision has not yet been made, and will commence on a day to be fixed by proclamation or, at the latest, on 9 August 2026 (being six months after Royal Assent).

### Bills to reduce tax concessions for large super balances and changes to LISTO awaits assent

The **Treasury Laws Amendment (Building a Stronger and Fairer Super System) Bill 2026 (the Bill)** and the **Superannuation (Building a Stronger and Fairer Super System) Imposition Bill 2026** were introduced and have been passed by the Senate and now await assent. The Bills were introduced to reduce the superannuation tax concessions and increase the low-income superannuation tax offset (LISTO) threshold.

#### Division 296 Tax:

- Imposes additional tax on earnings of superannuation balances exceeding \$3 million (15%) and \$10 million (10%), resulting in effective tax rates of 30% for balances \$3–10 million and 40% for balances above \$10 million.
- Thresholds will be CPI-indexed annually.
- Tax liabilities are calculated by the Commissioner and may be paid from superannuation; deferred payment options apply for defined benefit interests not in retirement phase.
- Minor and technical amendments to related tax laws are included to implement the measure.

#### LISTO Changes:

- From 1 July 2027, the LISTO eligibility threshold increases from \$37,000 to \$45,000 and will align with personal income tax thresholds.
- The maximum LISTO payment will be calculated using a formula linking it to the superannuation guarantee rate, ensuring consistency with broader tax and superannuation settings.
- For 2027–28, the maximum LISTO payment is projected to be \$810.

These reforms follow exposure drafts and consultation after prior bills lapsed due to the 2025 federal election.

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## Legislation Update (Cont.)

### Regulations to support Payday Super reforms

The [Treasury Laws Amendment \(Payday Superannuation\) Regulations 2026](#) have been made to support the Payday Super reforms, which commence on 1 July 2026 and shift superannuation guarantee (SG) payments from a quarterly system to payment on employees' qualifying earnings (QE) days (i.e. payday).

The Regulations amend the [Superannuation Guarantee \(Administration\) Regulations 2018](#) and the [Superannuation Industry \(Supervision\) Regulations 1994](#), and make consequential changes to the [Bankruptcy Regulations 2021](#) and the [Superannuation \(CSS\) \(Superannuation Guarantee\) Regulations 2008](#).

Key changes include setting out how an employer's 60% administrative uplift may be reduced (including for voluntary disclosures), consolidating exclusions from qualifying earnings, prescribing exceptional circumstances for Commissioner determinations, updating defined benefit settings, streamlining trustee allocation and refund timeframes (generally to 3 business days, with shorter validation periods), retaining existing allocation timing for SMSFs, and inserting transitional rules for contribution periods spanning 1 July 2026.

The Regulations commence alongside the Superannuation Guarantee Charge Amendment Act 2025 on 1 July 2026.

### Declaration made to specify community charity trusts

[Taxation Administration \(Community Charity Trusts and Corporations\) Amendment \(2026 Measures No. 1\) Declaration 2026](#) has been made to officially list certain trusts as community charity trusts under Division 426 of Schedule 1 to the Taxation Administration Act 1953 (TAA 1953).

In 2024, Schedule 3 of the Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024 introduced a framework allowing community charities to apply for deductible gift recipient (DGR) endorsement. This created a new category of eligible entities: community charity trusts and community charity corporations. To qualify, entities must be specifically named in a Ministerial declaration under Division 426.

The new legislative instrument adds 34 more entities to this list. However, being named is not enough, the entities must also:

- Be registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC), and
- Comply with the Taxation Administration (Community Charity) Guidelines 2025.

The declaration took effect from 26 February 2026.

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## Other Legislation Updates

### Draft notices for lodgment of 2025–26 tax returns

The ATO has released two draft legislative instruments outlining proposed income tax return lodgment requirements for the 2025–26 income year:

- Draft Taxation Laws (Requirement to Lodge a Return for the 2026 Year) Instrument 2026 ([LI 2026/D2](#)); and
- Draft Income Tax Assessment (Requirement for Parents Liable for or Entitled to Child Support to Lodge a Return for the 2026 Year) Instrument 2026 ([LI 2026/D1](#)).

The draft LI 2026/D2 introduces a new requirement for certain entities to lodge a community charity return under section 163 of the ITAA 1936 for the 2026 year.

Submissions on both draft instruments are invited by 13 March 2026.

### Government response to Senate report on Strengthening Financial Systems Bill

The government has tabled its response to the Senate inquiry into the [Treasury Laws Amendment \(Strengthening Financial Systems and Other Measures\) Bill 2025](#), which received Royal Assent as Act Np 72 of 2025 on 4 December 2025.

The Act implements reforms across corporate disclosures, small business taxation, charities regulation, energy market protections and financial regulator oversight.

In response to committee commentary, the government partially supported a recommendation to establish a public beneficial ownership register but rejected the proposed 2026 timeframe, instead planning policy development from 2027 and aiming to introduce legislation before the end of that year. It also rejected calls to extend the commencement of enhanced ownership disclosure rules beyond 12 months and declined proposals to broaden public access to tracing notice registers or remove ASIC's "reasonable grounds" requirement.

Regarding Schedule 3, the government maintained its position to reduce the review cycle of the Financial Regulator Assessment Authority from biennial to five-yearly, considering this strikes a better balance between oversight effectiveness and regulatory burden.

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

## OECD Updates

### OECD BEPS Action 5 – updated peer reviews on preferential tax regimes

The OECD Forum on Harmful Tax Practices has completed its fifth annual review of substantial activities requirements in no or only nominal tax jurisdictions and reached new conclusions on four regimes. Overall, most jurisdictions reviewed were found to be fully compliant with the BEPS Action 5 minimum standard. However, focused monitoring will continue for Anguilla and the Turks and Caicos Islands, where specific improvements were identified as necessary.

Three newly introduced regimes were assessed, with those of Ireland and Peru found not to be harmful. In Fiji, one regime was confirmed as abolished and another previously under review was also confirmed as abolished. The findings form part of the OECD's ongoing implementation of the BEPS Action 5 minimum standard on harmful tax practices and were approved by the Inclusive Framework on BEPS on 5 February 2026.

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

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## Other Updates & News

### Exposure draft on amendments to global minimum tax rules

Treasury has released [exposure draft materials](#) proposing amendments to Australia's global minimum tax rules to align with OECD Administrative Guidance.

In 2024, Australia enacted legislation introducing a 15% global minimum corporate tax for large multinational enterprises, aligned with the OECD Inclusive Framework and Pillar Two of the OECD's Two-Pillar Solution addressing tax challenges from the digitalised global economy.

The [Draft Taxation \(Multinational—Global and Domestic Minimum Tax\) Amendment \(2026 Measures No 1\) Rules 2026](#) propose administrative amendments to improve the operation of Australia's domestic top-up tax under the 2024 Rules. The amendments aim to:

- Clarify how the tax applies to stateless entities with an Australian nexus.
- Improve interaction with existing consolidation rules.
- Ensure covered taxes are allocated consistently with GloBE income for certain entities.
- Ensure the domestic minimum tax operates effectively.
- Introduce a foreign currency translation rule.

These changes incorporate OECD administrative guidance into Australian legislation and will apply retrospectively from 1 January 2024, consistent with OECD policy.

Public submissions on the draft rules are open until 13 March 2026.

### Increase in High Court fees

Solicitors' fees for work performed in the High Court will increase by 2.9% from 1 March 2026, following a recommendation by the Joint Costs Advisory Committee.

The increase is implemented by the [High Court Amendment \(Fees\) Rules 2026](#), which amends Schedule 2 of the High Court Rules 2004. Schedule 2 sets out the amounts that solicitors entitled to practise in the High Court may charge and recover on taxation of costs by the Court's Taxing Officer in respect of proceedings.

The amended amounts will apply to all work done and services performed on or after 1 March 2026. The schedule was last updated by the [High Court Amendment \(Fees and other Measures\) Rules 2025](#) on 28 February 2025.

### Government to increase distribution rate for giving funds

The government has announced changes to strengthen support for Australian charities by increasing the minimum annual distribution rate for both public and private giving funds to 6% of net assets.

Giving funds allow donors to claim an upfront tax deduction while investing donated amounts for longer-term charitable benefit, in return for meeting minimum distribution requirements. Treasury analysis indicates that funds distributing at this level can remain sustainable for decades, and many funds already distribute at or above this rate.

Additional reforms will allow giving funds to smooth distributions over a three-year period, enabling support for larger charitable projects without excessive capital drawdowns.

The new rate will apply from the first financial year after amendments to the giving fund guidelines, with a two-year transition period for existing funds, and reflects recommendations from the Productivity Commission and the not-for-profit sector.

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

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## Other Updates & News (Cont.)

### TPB reinforces importance of full disclosure during registration

The Tax Practitioners Board (TPB) has emphasised the importance of full and truthful disclosure during registration and renewal processes following the 16 January 2026 conviction of a former tax agent for making a false or misleading statement in a renewal application.

The offence arose from a 31 October 2024 application in which the agent incorrectly declared that neither he nor associated entities had overdue tax obligations, despite multiple outstanding lodgments at the time. The TPB reminded practitioners that providing false or misleading information in a material particular is an offence under s 8K(1)(a) of the Taxation Administration Act 1953 and that meeting personal tax obligations is a fundamental professional standard.

TPB Chair Peter de Cure AM stated that the Board will take action where inaccurate information is provided, reinforcing that honesty in the registration process is essential to maintaining public confidence in the tax profession.

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

## ATO Rulings and Activity

### Draft update to ruling on the system of private rulings

The ATO has released a [draft update](#) to Taxation Ruling [TR 2006/11](#) to reflect recent court decisions and changes to promoter penalty laws under Division 290 of Schedule 1 to the Taxation Administration Act 1953.

Under these laws, the Commissioner can seek Federal Court penalties or remedies where a scheme is promoted as complying with a private ruling but is materially different from what the ruling actually describes. The draft update also clarifies the scope of matters that can be covered by a private ruling, including valuations and the general anti-avoidance rules.

Public submissions on the draft update are open until 27 March 2026.

The proposed changes are intended to apply both retrospectively and prospectively (i.e., before and after the addendum is issued).

### Addenda to rulings issued for promoter penalty rules

The ATO has issued addenda to [TR 2006/10](#), [CR 2001/1](#), and [PR 2007/71](#) to incorporate recent case law developments and legislative changes to promoter penalty provisions under Division 290 of Schedule 1 to the Taxation Administration Act 1953.

The addenda are effective **both** retrospectively and prospectively from 25 February 2026.

### ATO ID on CGT and stockbroker's mistake withdrawn

[ATO ID 2010/124](#), which considered whether CGT event C1 would occur where shares were sold without the owner's consent due to a stockbroker's mistake to a bona fide purchaser for value without notice, has been withdrawn with effect from 27 February 2026 as it no longer reflects the ATO's current view.

The ATO now considers that only CGT event A1 (disposal of a CGT asset) happens in these circumstances, not CGT event C1 (loss or destruction of a CGT asset), meaning the roll-over relief under Subdivision 124-B of the ITAA 1997 is not available.

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## ATO Rulings and Activity (Cont.)

### ATO finalises views on GST treatment of formula products

The ATO has issued [GSTD 2026/1](#) clarifying when formula products are GST-free under s 38-2 of the GST Act.

The Determination confirms that only formula products marketed principally as food for infants, defined as children up to 12 months, are GST-free under table item 13 of Schedule 2. Formula products for children aged 12 months or older are not GST-free, nor do they qualify under table items 1 or 2.

A transitional compliance approach allows taxpayers who treated formula for children over 12 months as GST-free in good faith to avoid review for periods ending on or before 30 June 2026, except in cases of fraud, evasion, or voluntary changes to claim input credits.

The ATO also updated the Detailed Food List [GSTII FL1](#) to align with this view, introducing new formula product entries, removing outdated infant formula entries, revising other snack food entries, and withdrawing [ATO ID 2001/441](#) (which dealt with the GST status of malt extract).

Both the Determination and the Addendum apply retrospectively and prospectively, with taxpayers able to choose which wording to rely on for overlapping periods.

### GST determination on supplies relating to fund-raising events finalised

A legislative instrument has been finalised that allows an endorsed charity, gift-deductible entity, or government school to treat all supplies made in connection with a fund-raising event as input taxed, provided it holds 15 or fewer similar fund-raising events in a prescribed accounting year.

The [A New Tax System \(Goods and Services Tax\) \(Frequency of Fund-raising Events\) Determination 2026 \(F2026L00187\)](#) finalises rules under s 40-160 allowing endorsed charities, gift-deductible entities, and government schools to treat supplies from fund-raising events as input taxed.

Entities holding 16 or more similar fund-raising events in a prescribed accounting year cannot apply this treatment and must remit GST on all such events. The prescribed accounting year is defined as the 12-month period ending on the entity's account-balancing date.

The instrument finalises draft A New Tax System (Goods and Services Tax) (Frequency of Fund-raising Events) Determination 2026 ([LI 2025/D22](#)) and repeals the [Goods and Services Tax: Frequency of Fund-raising Events Determination \(No 31\) 2016 \(F2016L00192\)](#).

The instrument commenced on 4 March 2026.

### Tax Ombudsman review: ATO's management of GIC remission

The Tax Ombudsman has called on the ATO to provide fairer and more consistent relief from general interest charge (GIC) liabilities, finding that the ATO's tightened approach to remission since 2023 has contributed to growing tax debts, financial stress and reduced confidence in the tax system.

Following extensive consultation with taxpayers and the tax profession, the Ombudsman identified inconsistent decision-making, vague guidance and poor communication as key drivers of unfair outcomes, and made four recommendations aimed at improving review processes, guidance, transparency and consideration of taxpayer circumstances, including hardship and vulnerability.

The ATO has agreed with all recommendations and noted that it has already begun implementing reforms, including clearer website guidance, new application forms, caps and centralised review of higher-value remissions, and a broader review of taxpayer relief provisions commenced in March 2025, with further improvements planned through 2026.

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

## ATO Rulings and Activity (Cont.)

### Transfer balance cap to increase to \$2.1 million

From 2026–27, the general transfer balance cap for superannuation will increase from \$2 million to \$2.1 million, and the defined benefit income cap will rise from \$125,000 to \$131,250.

The general transfer balance cap is indexed annually in \$100,000 increments in line with the Consumer Price Index (CPI) under section 960-285 of the ITAA 1997. The defined benefit income cap each year is calculated as one-sixteenth of the general transfer balance cap.

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

### Legislative instrument on PAYG withholding variation — individual appointed as a director finalised

The ATO has finalised a legislative instrument that varies the PAYG withholding rate for certain payments made to individuals who must pass the entire amount to another entity where they act as a director, partner, or employee.

The [Taxation Administration \(PAYG Withholding Variation for Company Directors and Certain Office Holders\) Legislative Instrument 2026 \(F2026L00198\)](#) reduces the withholding amount to nil when payments are made to individuals acting as directors, committee of management members, or other office holders, and those individuals are required to remit the full payment to another entity with which they are associated.

The instrument also removes the requirement for payers to issue payment summaries or report these payments through the Single Touch Payroll (STP) system, recognising that the payments are effectively made to the associated entity rather than retained by the individual.

This instrument finalises draft [LI 2025/D24](#) and replaces the earlier [PAYG Withholding Variation: Company Directors and Office Holders \(F2016L00222\)](#) (the 1026 instrument), which was due to sunset on 1 April 2026. While it largely maintains the same outcome as the 2016 instrument, it also introduces an exemption from STP reporting, reflecting reporting requirements introduced after the earlier instrument.

The new instrument commenced on 6 March 2026.

### Legislative instruments on GST attribution rules finalised

The ATO has finalised several legislative instruments to continue specific GST attribution rules that were scheduled to sunset on 1 April 2026 under the A New Tax System (Goods and Services Tax) Act 1999.

- Motor vehicle incentive payments

The [A New Tax System \(Goods and Services Tax\) \(Attribution Rules – Certain Motor Vehicle Incentive Payments made to Motor Vehicle Dealers\) Determination 2026 \(F2026L00190\)](#) modifies the attribution rules in Division 29 of the GST Act for motor vehicle dealers who receive incentive payments from manufacturers, distributors, or importers.

Under the instrument, GST on a vehicle sale is attributed to the tax period when the dealer knows the total consideration for the sale. This applies where:

- The dealer receives or invoices an incentive payment in an earlier tax period,
- The total consideration is not yet known, and
- The use, enjoyment, or transfer of title occurs after that earlier period.

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The rule ensures dealers attribute the correct GST amount when only part of the total consideration (such as incentive payments) is known initially.

This instrument commenced on 6 March 2026 and replaces the 2015 determination.

### ATO Rulings and Activity (Cont.)

- Prepayments for telecommunication supplies

The [A New Tax System \(Goods and Services Tax\) \(Attribution Rules – Prepayment for a Telecommunication Supply\) Determination 2026 \(F2026L00189\)](#) adjusts attribution rules for certain telecommunications supplies.

For suppliers not accounting on a cash basis, GST is attributed to the earlier of:

- The tax period when an invoice is issued, or
- When an invoice would have been issued if prepayment had not been made.

This ensures GST is attributed appropriately despite prepayment arrangements.

The instrument commenced on 5 March 2026 and replaces the 2016 determination for prepayments of telephone services.

- Electricity distribution services

The [A New Tax System \(Goods and Services Tax\) \(Attribution Rules – Supplies of Electricity Distribution Services\) Determination 2026 \(F2026L00194\)](#) modifies attribution rules for certain electricity distribution services.

GST on these supplies is attributed to the tax period when the supplier receives sufficient information from its billing agent to determine the total consideration. The rule applies where:

- The supplier does not account on a cash basis,
- The billing agent issues the invoice, and
- The supplier could not determine the full consideration earlier.

Adjustments relating to these supplies are attributed to the period when the supplier receives the necessary information to calculate the adjustment.

This instrument commenced on 5 March 2026 and replaces the 2016 determination for electricity distribution services.

Overall, these instruments largely maintain existing GST attribution arrangements while replacing earlier determinations that were due to sunset.

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## Minor updates to practice statements

The ATO has reviewed and updated two Law Administration Practice Statements to ensure they remain technically accurate, current, and consistent with contemporary ATO style and accessibility requirements.

The updated statements are:

- [PS LA 2005/16](#), which deals with granting a further period to make an approved valuation for the purpose of calculating the margin on a supply under Division 75 of the A New Tax System (Goods and Services Tax) Act 1999, and
- [PS LA 2011/14](#), which outlines the ATO's general debt collection powers and principles. The updates are administrative in nature and reflect formatting, clarity and currency improvements rather than substantive policy changes.

## ATO Rulings and Activity (Cont.)

### Practice statement on registration of entities updated

The ATO has updated Practice Statement [PS LA 2011/8](#), which outlines the policy and procedures for registering entities.

The update confirms the content has been reviewed for technical accuracy and currency, relevant links have been updated, and a definition of "Australia" has been added at paragraph 5.

### Class Rulings Issued:

- Class Ruling [CR 2026/8](#) Department of Energy, Environment and Climate Action – Field Staff Early Retirement Scheme 2026. This ruling applies from 19 February 2026 until 30 October 2026.
- Class Ruling [CR 2026/9](#) Seven West Media Limited – scrip for scrip roll-over. This ruling applies from 1 July 2025 to 30 June 2026.
- [Erratum](#) to Class Ruling [CR 2024/73](#) Aristocrat Leisure Limited - Non-Executive Director Rights Plan. The erratum corrects a typographical error and applies from 27 November 2024.

### Other Rulings Issued:

- Product Ruling [PR 2026/1](#) Allianz Guaranteed Income for Life. This ruling applies from 19 January 2026 to entities specified in paragraph 4 of the Ruling.

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## Latest Australian Tax Cases

### **Tilli v FC of T 2026 ATC [2026] ARTA 80, 23 January 2026:**

The Administrative Review Tribunal (ART) upheld administrative penalties imposed on a taxpayer for making false or misleading statements to the Commissioner about her income. The taxpayer, a trustee of the Sciacca Family Trust (SFT), declared modest trust income in her 2015–2017 tax returns, which were prepared by her tax agent. However, an ATO audit found she had omitted \$180,185 in income, including rental income from trust properties, unexplained bank deposits, and cash received from her husband. The Commissioner imposed shortfall penalties at a base rate of 50% for recklessness, with an uplift for certain years. The taxpayer argued the penalty should be reduced to 25% for failing to take reasonable care, or remitted in part, citing her lack of financial sophistication, reliance on her husband and tax agent, and financial hardship following her husband's bankruptcy. However, she provided no supporting evidence and did not attend the hearing. The ART found her conduct amounted to recklessness, not mere carelessness. She admitted she did not monitor her bank accounts and signed documents without reading them, demonstrating a complete disregard for her financial and tax obligations. The Tribunal described this as wilful disengagement rather than oversight. It also declined to remit the penalty, noting the absence of evidence of financial hardship and stating that reducing the penalty would undermine the purpose of the legislative regime. The penalties were therefore affirmed.

### **RRKC v FC of T 2026 ATC [2026] ARTA 95, 28 January 2026:**

The ART held that a taxpayer involved in extensive property development and renovation activities was carrying on a business, so profits from the sale of three residential units were ordinary income under s 6-5 of the ITAA 1997 and the units were trading stock under s 70-10. Despite the taxpayer's claim that he was merely an investor who sold properties due to personal and financial pressures, the Tribunal found his repeated buying, developing and selling of properties demonstrated a profit-making business. The sales were also taxable supplies for GST purposes, but only Unit 1C was correctly assessed for GST in the September 2016 BAS period; the GST assessment for Unit 1E was set aside and the treatment of Unit 1D was remitted to the Commissioner for reconsideration due to insufficient evidence.

### **Afshari v FC of T 2026 ATC [2026] ARTA 159, 8 February 2026:**

An engineer's claims for work-related car expenses (for both his and his wife's cars), self-education expenses, interest on a car loan, and other home office expenses for the 2023 income year were wholly rejected by the Administrative Review Tribunal (ART) because he failed to provide accurate, reliable, and contemporaneous documentation to substantiate them. The taxpayer, employed full-time by GHD Pty Ltd and running his own consulting business, claimed \$61,286 in deductions against \$155,747 of salary and wages, including \$11,130 for car expenses, \$5,347 for travel, \$1,820 for clothing, \$4,513 for self-education, \$17,726 for other work-related expenses, and \$15,407 for interest. Following an audit, the Commissioner allowed only minimal amounts, and the taxpayer sought review by the ART. The ART found that the logbooks for his cars were not contemporaneous, inconsistent with other records, and non-compliant with legislative requirements, and no invoices or bank statements were provided to support utility, loan repayment, or home office expense claims. The claimed self-education expense for an Iranian language class was also disallowed as it was not incurred in producing assessable income. As a result, all the taxpayer's remaining claims were rejected, affirming the Commissioner's decision.

### **Crawford v FC of T 2026 ATC [2026] ARTA 90, 28 January 2026:**

The ART upheld 50% administrative penalties for recklessness against tyre fitter Jamie Crawford, who allowed an acquaintance to access his myGov account and lodge amended tax returns claiming fraudulent deductions equal to his gross income, generating refunds of over \$84,000 across the 2019–2021 years (with a further refund withheld). In exchange for 10% of any refund, he provided his login details despite suspecting the arrangement and failing to verify that the acquaintance was a registered tax agent. The Tribunal rejected his claim that he was a scam victim, finding he was grossly indifferent to the obvious risk the returns were false and relied on assurances there was "no chance of getting caught." It held the penalties were correctly imposed at the 50% rate for recklessness (not 25% for failure to take reasonable care) and declined remission, noting he only acted after the ATO audit commenced and continued to avoid accepting responsibility.

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## **FC of T v SNA Group Pty Ltd & Anor 2026 ATC [2026] FCAFC 10, 17 February 2026:**

The Full Federal Court allowed the Commissioner's appeal in SNA Group Pty Ltd and APTR Pty Ltd, holding that the taxpayers were not entitled to deduct post-2015 "service fee" payments to related trusts because there was no objective evidence of a binding contract requiring those payments. Although the taxpayers continued using trust assets and internally treated the amounts as commercially reasonable fees, the Court found no outward communication or conduct demonstrating mutual assent to pay a fair and reasonable fee (including any agreed 8% benchmark). Subjective belief and accounting entries were insufficient to establish a contractual liability under s 8-1 ITAA 1997, so the deductions were disallowed.

## **Halse v FC of T 2026 ATC [2026] ARTA 156, 9 February 2026:**

The ART affirmed the Commissioner's decision that a taxpayer who acquired vacant land in 1989 could not include rates and land tax as third element "costs of ownership" in the cost base under s 110-25(4) of the ITAA 1997 when calculating capital gains on its sale in 2021 and 2024. Although the taxpayer argued it was reasonable to include post-20 August 1991 holding costs, the Tribunal held the legislation was clear and unambiguous: such costs are only included if the CGT asset was acquired after 20 August 1991. As the property was acquired before that date and subdivision did not alter the acquisition date, the costs were excluded. Arguments based on fairness, purpose, or intended use of the land were rejected, and the assessments were upheld.

## **RQA Accountants Pty Ltd v FC of T 2026 ATC [2026] ARTA 210, 17 February 2026:**

The Administrative Review Tribunal (ART) upheld the Commissioner's decision denying a company input tax credits for legal and miscellaneous expenses for the 2016–2020 periods, finding it was not carrying on an enterprise for GST purposes. Although the company's ABN and GST registration were reinstated retrospectively, the evidence showed no substantive business activity during the relevant periods, aside from limited compliance work for the director's superannuation fund. As a result, the legal costs (which arose from litigation and court-ordered payments to a bank) and other expenses such as office supplies and motor vehicle costs were not acquired for a creditable purpose under s 11-15 of the GST Act. Without an enterprise being carried on, there were no creditable acquisitions and therefore no entitlement to input tax credits.

## **Yadav v FC of T, [2026] FCA 140, 24 February 2026:**

The Federal Court has dismissed a taxpayer's interlocutory application seeking early determination of legal questions challenging the Commissioner's process for forming an opinion of evasion in relation to amended income tax assessments for the 2010–18 income years. The taxpayer argued that the Commissioner was required, under PS LA 2008/6, to form a separate, evidence-based opinion of evasion for each year rather than a single aggregated opinion. The Court held that PS LA 2008/6 is an internal ATO document with no statutory force and does not constrain the Commissioner's powers under s 170 of the ITAA 1936, which itself imposes no requirement to form separate evasion opinions for each year. Relying on *Macquarie Bank Ltd v FC of T*, the Court answered the first question "no", meaning the second question did not arise, although the Court noted that, in any event, the evidence showed the Commissioner had formed separate evasion opinions for each income year from 2011 to 2018.

## **Endycott & Anor v FC of T 2026 ATC [2026] ARTA 214, 16 February 2026:**

The ART has largely upheld the Commissioner's amended assessments for income tax, GST and penalties relating to substantial undeclared income and misreported GST by a commercial painter, Mr Endycott, and his family trust for the 2015 and 2016 income years. Following an audit, the Commissioner identified hundreds of unexplained deposits, extensive commingling of personal and business funds, and the claiming of clearly private expenses through the trust, and imposed penalties for intentional disregard of the tax law. The taxpayers argued that many deposits were non-assessable reimbursements and relied on an expert report prepared from unreliable records, as well as blaming errors on their former accountant. The ART found the expert report could not be accepted, held that the taxpayers failed to discharge their onus of proving the assessments excessive, and concluded that Mr Endycott knowingly and deliberately disregarded his tax

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obligations. As a result, the base penalty of 75% (with uplift) was not excessive, the safe harbour provisions did not apply, and there was no basis for remission of penalties.

## **Farley v FC of T 2026 ATC [2026] ARTA 255, 23 February 2026:**

The Administrative Review Tribunal (ART) has upheld the Commissioner's decision denying a pilot's claim for deductions of \$26,015 in medical expenses incurred while regaining his medical clearance before commencing new employment with an airline. The taxpayer's licence had been suspended in June 2021 due to medical issues, and he undertook medical consultations, testing and treatment between July 2021 and May 2022 to regain the certificates required to fly. Although he began employment with Alliance Airlines in March 2022, the ART found the expenses were not deductible under s 8-1 of the ITAA 1997 because they were incurred to put him in a position to obtain employment, rather than in the course of earning assessable income. The expenses were therefore private in nature and incurred "functionally too soon," even where some were paid after his employment commenced.

## **FC of T v Shaw 2026 ATC; [2026] FCA 197, 4 March 2026:**

The Commissioner's appeal against the ART decision in *Shaw v FC of T 2025 ATC; [2025] ARTA 224*, which had allowed a long-haul truck driver's meal expense claims, has been dismissed. The Federal Court found that none of the Commissioner's grounds of appeal were established.

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