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Monthly Tax Update

May 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.

Budget 2026 Update

On 12 May 2026, the Government announced this years Federal Budget via the Treasurer Jim Chalmers speech to Parliament. It is, by some margin, the most significant structural tax reform package since the introduction of the GST. The Government has framed the package around three themes, intergenerational fairness, housing affordability, and productivity, and the centrepiece measures include sweeping changes to capital gains tax, negative gearing, discretionary trusts, and business tax incentives. The political weight of these reforms has been softened with additional personal tax relief, a new Working Australians Tax Offset, permanent small business deductions, and a refreshed package of innovation and start-up incentives.

Please refer to our Budget 2026 Report for further in-depth analysis of the Budget measures.

Legislation Update

Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023

The Government has tabled its response to Senate recommendations on the Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023, rejecting all proposed changes.

The Government did confirm in the Budget release that the $20,000 instant asset write-off will become permanent for eligible small businesses.

It rejected changes to the NALE superannuation rules, retaining the current 2019 anti-avoidance framework.

Finally, it did not support extending the small business energy incentive, which applied for 2023–24 only and provided a 20% bonus deduction on eligible energy efficiency investments.

Other Legislation Updates

Draft changes to Pillar 2 rules for global and domestic minimum tax

Treasury has released draft amendments to Australia's Pillar 2 tax framework to align domestic rules with updated OECD guidance and ensure consistent operation of the global minimum tax system.

The changes relate to the Taxation (Multinational—Global and Domestic Minimum Tax) Act 2024, which introduced a 15% minimum tax for large multinational enterprise groups operating in Australia, and the associated Taxation (Multinational—Global and Domestic Minimum Tax) Rules 2024, which set out the detailed calculation and application mechanics.

Purpose of the amendments

The proposed Taxation (Multinational—Global and Domestic Minimum Tax) Amendment (2026 Measures No. 2) Rules 2026 are intended to ensure Australia's Pillar 2 framework remains consistent with OECD administrative guidance, including updates released in June 2024, December 2023 and January 2026.

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Other Legislation Updates (Cont.)

Key proposed changes:

The draft amendments refine several technical components of the existing rules, including:

- Updating flow-through entity income allocation rules under section 3-255 and related definitions in Chapter 10.
- Revising the blended controlled foreign corporation (CFC) allocation key under section 4-55.
- Modifying the substitute loss carry-forward rule under section 4-95.
- Making minor adjustments to Chapter 8 to ensure safe harbour provisions operate as intended.

These changes are aimed at improving consistency in how the global minimum tax rules are applied, particularly for multinational groups operating across multiple jurisdictions and entity structures.

Application and timing:

If enacted, the amendments would apply retrospectively from 1 January 2024, aligning with the commencement of Australia's Pillar 2 regime.

Consultation:

Stakeholders have been invited to provide feedback, with submissions closing on 22 May 2026.

Exposure draft legislation on foreign resident CGT regime

Exposure draft legislation has been released to implement the 2024–25 Budget measure aimed at strengthening the foreign resident capital gains tax (CGT) regime in Division 855 of the ITAA 1997. Please also refer to our recent Article on this draft legislation here.

The proposed amendments would:

- Clarify and expand the types of CGT assets captured under Division 855.
- Replace the current point-in-time principal asset test (PAT) with a 365-day testing period.
- Introduce new vendor notification requirements for certain high-value transactions involving shares and membership interests.

As part of the reforms, the government is also proposing a temporary 50% CGT discount for certain renewable energy assets.

Background:

The government announced in the 2024–25 Federal Budget that foreign investors would be subject to CGT on assets with a close economic connection to Australian land and natural resources. Treasury subsequently released a consultation paper in July 2024.

The 2025–26 Federal Budget later deferred the commencement date from 1 July 2025 to the later of 1 October 2025 or the start of the first quarter following Royal Assent of the legislation.

Expanding the scope of Division 855:

The first component of the draft legislation broadens the definition of taxable Australian real property (TARP). The amendments are intended to ensure that assets with a close economic connection to Australian land or natural resources are captured by the regime.

Other Legislation Updates (Cont.)

TARP would continue to include mining, quarrying and prospecting rights, but would also extend to:

- Water entitlements connected to Australian water resources, and
- Options or rights to acquire TARP assets.

The draft legislation also introduces a broader and more inclusive definition of "real property." This definition would specifically cover:

- Rights and interests relating to land.
- Fixtures and installations attached to land, regardless of differing state or territory legal treatment.
- Leases and licences connected to those assets.

The amendments are intended to provide consistent CGT treatment across all Australian jurisdictions, irrespective of differing state and territory property laws.

Importantly, certain changes concerning the meaning of "real property" would apply retrospectively in specified cases to CGT events occurring on or after 12 December 2006, when Division 855 was first enacted.

365-day principal asset test:

The second reform would amend the principal asset test for indirect Australian real property interests (IARPI).

Under the proposed rules, a non-portfolio membership interest would qualify as an IARPI if the entity satisfies the PAT either:

- At the testing time, or
- At any time during the preceding 365 days.

The PAT calculation would also require mining information to be included when determining whether the relevant threshold for TARP assets has been met.

The government says the changes are intended to strengthen the integrity of the regime and align Australia's approach with the OECD Model Tax Convention and OECD Multilateral Instrument.

New notification framework for large transactions:

The third element introduces a notification regime for certain large disposals involving non-IARPI membership interests.

Currently, vendors can provide a non-IARPI declaration to purchasers to avoid foreign resident CGT withholding obligations. Under the proposed framework, foreign residents disposing of non-IARPI membership interests valued at $50 million or more would also need to notify the ATO in the approved form before providing a valid declaration to the purchaser.

Purchasers would be required to consider whether it would be reasonable to conclude that a declaration is false.
The new framework would apply to vendor declarations made under section 14-225 of Schedule 1 to the Taxation Administration Act 1953. A vendor declaration would not be valid unless the required notification has first been provided to the Commissioner within the relevant timeframes.

For transactions below the $50 million threshold, the existing rules would continue to apply and no separate ATO notification would be required.

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Other Legislation Updates (Cont.)

Transitional CGT discount for renewable energy assets:

Following consultation with the renewable energy sector, the government is also proposing a temporary 50% CGT discount for certain foreign residents disposing of eligible Australian renewable energy assets or indirect interests in those assets.

To qualify for the concession, several conditions would need to be satisfied, including that:

- The gain arises from a CGT event involving a taxable Australian property asset.
- The taxpayer is a foreign resident entity or trustee of a foreign trust.
- The CGT event occurs after commencement of the provisions and before 30 June 2030.
- The asset is either an eligible Australian renewable energy asset or an indirect interest satisfying the renewable energy asset test.

For direct disposals, the asset must primarily generate, or directly facilitate the generation of, renewable electricity in Australia using an eligible renewable energy source under the Renewable Energy (Electricity) Act 2000.

For indirect interests, at least 90% of the value of the entity's TARP assets must relate to qualifying renewable energy assets. The concession would apply independently of the standard CGT discount rules in Subdivision 115-A of the ITAA 1997, allowing entities to access the discount even where they would not otherwise qualify for a CGT discount under section 115-10.
According to the explanatory materials, the concession is intended as a transitional measure to assist foreign investors in pricing CGT implications into renewable energy investments before the broader foreign resident CGT reforms fully take effect.

Commencement and consultation:

Most amendments would apply to CGT events occurring from the commencement date, being the first 1 January, 1 April, 1 July or 1 October following Royal Assent of the legislation.

However, certain amendments relating to the meaning of "real property" would apply retrospectively in specified circumstances to CGT events occurring on or after 12 December 2006.

Consultation on the exposure draft legislation closed on 24 April 2026.

Exposure draft legislation: $1,000 instant tax deduction

Exposure draft legislation has been released proposing the introduction of an instant tax deduction for eligible taxpayers. Refer to our recent artilcle on this new draft legislation here.

The Treasury Laws Amendment Bill 2026 (draft Bill) would amend tax law to establish a standard deduction of up to $1,000 for Australian tax residents who earn employment income, commencing from 1 July 2026.

Key features of the proposed standard deduction:

The measure would:

- Introduce a default deduction of up to $1,000 for work-related expenses for eligible individuals.
- Retain existing arrangements for taxpayers whose genuine work-related expenses exceed $1,000, or who derive only business or investment income.
- Allow certain deductions to be claimed in addition to the standard deduction, including investment expenses, charitable donations, and union or professional membership fees.
- Prevent double-dipping by disallowing salary-sacrificed expenses already covered by the standard deduction.
- Update substantiation and capital allowance rules to align with the new system.

Other Legislation Updates (Cont.)

The standard deduction is intended to reduce compliance costs by allowing taxpayers to claim a fixed amount without needing to keep detailed records, while still preserving the ability for individuals with higher expenses to itemise claims under existing rules. Where a taxpayer chooses to claim actual expenses above $1,000, the standard deduction would not apply.

Changes to substantiation and capital allowance rules:

The draft Bill also updates existing rules to support the new system by:

- Removing certain small-amount substantiation concessions for work-related expenses.
- Repealing related provisions and definitions.
- Updating transport expense rules.
- Preventing new depreciating assets primarily used to earn employment income from being placed into low-value pooling arrangements.
- Introducing an optional fixed-reduction method for calculating balancing adjustments and capital gains or losses for depreciating assets used to earn employment income, where taxpayers rely on the standard deduction instead of maintaining detailed usage records.

Fringe Benefits Tax changes:

The draft Bill also amends the Fringe Benefits Tax Assessment Act 1986 to prevent duplication of tax benefits. In particular :

- The “otherwise deductible” rule would not apply to expense payment fringe benefits that relate to work-related expenses covered by the standard deduction under salary packaging arrangements.
- The FBT exemption for eligible work-related items would be limited to benefits not provided under salary packaging arrangements and would no longer be restricted to substantially identical items.

These changes are intended to ensure the standard deduction cannot be combined with salary packaging to produce a double tax benefit.

Application and consultation:

Subject to parliamentary passage, the instant tax deduction would apply from the 2026–27 income year.

Consultation on the exposure draft is closed on 30 April 2026.

Exposure draft legislation on News media bargaining incentive charge (NMI)

Treasury has released exposure draft legislation to establish the News Media Bargaining Incentive charge (NMI), a new framework designed to apply to large digital platforms and support payment arrangements with Australian news media businesses.

The package consists of the draft News Media Bargaining (Administration) Bill 2026, the News Media Bargaining Charge Bill 2026, and the Treasury Laws Amendment (News Media Bargaining) (Consequential) Bill 2026. Together, these Bills set out the liability rules, calculation method, offset mechanism, and administrative arrangements for the charge.

Overview of the NMI framework:

Under the proposed system, entities (or corporate groups) providing significant social media or search services in Australia would be liable for the NMI if their consolidated Australian-attributable revenue exceeds $250 million in a financial year. The charge would apply at a rate of 2.25% of an entity’s consolidated revenue attributable to Australia, calculated using

Other Legislation Updates (Cont.)

revenue from the third-most-recent financial year prior to the year in which the NMI is imposed.
Entities could reduce their liability through an offset mechanism if they enter into commercial arrangements with Australian news media businesses for the production or use of news content. The offset could reduce the NMI liability in whole or in part depending on the value of eligible agreements.

Administration and oversight:

The Commissioner of Taxation would have general administration of the NMI, including the ability to issue rulings and guidance to assist affected entities in meeting their obligations.
The framework also provides that decisions under the legislation would not be subject to review under the Administrative Decisions (Judicial Review) Act 1977. Instead, entities would be able to seek merits review of assessments.

Lodgement and assessment rules:

The draft legislation requires a parent entity within a group to lodge a return in the approved form if the group is liable for the NMI, even where offsets reduce the final liability to nil. Returns would be required within six months after the end of the financial year.
The Commissioner would also have the power to issue assessments at any time where a liability arises, including in cases where a return has not been lodged.

Deductibility:

The NMI itself would not be tax-deductible under the ITAA 1997. However, expenses incurred in managing tax affairs related to the NMI, including compliance and administrative costs, would be deductible as ordinary tax administration expenses.

Consequential amendments:

The consequential amendments would modify the Taxation Administration Act 1953, the Administrative Decisions (Judicial Review) Act 1977, and the Income Tax Assessment Act 1997 to support the operation of the new charge.

Consultation:

The exposure draft legislation is open for public comment until 18 May 2026.

Exposure draft legislation on changes to TPB sanctions regime in response to PwC leaks

Exposure draft legislation has been released proposing significant reforms to strengthen the Tax Practitioners Board (TPB) sanctions framework, as part of the government's response to the PwC matter.

The changes form part of broader work following the 2019 independent review of the TPB and the Tax Agent Services Act 2009, as well as commitments made in the 2025–26 Federal Budget to modernise the tax practitioner regulatory system and strengthen compliance and enforcement settings.

The TPB also indicated in July 2025 that it would consider reforms to improve both the sanctions regime and the registration framework.

Other Legislation Updates (Cont.)

Proposed changes to the sanctions regime:

The exposure draft legislation introduces a range of measures intended to strengthen regulatory oversight of tax practitioners, including:

- Introducing criminal penalties for unregistered individuals preparing tax returns
- Increasing maximum civil penalty amounts
- Allowing infringement notices for certain civil penalty breaches
- Enabling enforceable voluntary undertakings
- Permitting contingent and interim suspensions of registration in defined circumstances
- Introducing new civil penalties for:
  - Breaches of the Code of Professional Conduct by registered tax practitioners, and
  - False or misleading statements made by unregistered preparers
- Extending the re-application ban for deregistered practitioners from 5 years to 10 years

Commencement and application:

The proposed amendments would apply to conduct occurring on or after commencement of the legislation, which is expected to be the first 1 January, 1 April, 1 July or 1 October following Royal Assent.

Consultation on the exposure draft closed on 24 April 2026.

For further information, please refer here.

OECD Updates

OECD Pillar 2 implementation toolkit

The OECD has released an implementation toolkit designed to assist tax administrations and tax policy officials with the introduction of the global minimum tax regime.

The Global Minimum Tax Implementation Toolkit provides a roadmap outlining the key steps involved in implementing the global minimum tax, with each step supported by detailed complementary modules.

The toolkit offers guidance on best-practice approaches for establishing efficient implementation processes while minimising administrative and compliance costs for both tax authorities and taxpayers.

Drawing on the experiences of jurisdictions that are further advanced in implementing the regime, as well as feedback from businesses and other stakeholders, the OECD has developed the toolkit to promote consistent, practical and effective administration of the global minimum tax framework.

For further information, please refer here.

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OECD Updates (Cont.)

OECD practical guide to investment tax incentives

The OECD has released a new guide aimed at helping governments design and implement more effective investment tax incentives.

The publication, A Practical Guide to Investment Tax Incentives, provides practical guidance across the full policy lifecycle — from initial policy conception and design through to implementation, monitoring and evaluation.

At each stage, the guide outlines key decision points and policy options intended to improve outcomes and assist governments in prioritising reforms, drawing on lessons and experiences from jurisdictions around the world.

Key recommendations highlighted in the guide include:

Conception:

- Assess whether government intervention is necessary and whether a tax incentive is the most appropriate and cost-effective policy tool to achieve the intended objective.
- Conduct ex-ante assessments of the likely costs and benefits of proposed incentives and alternative measures, including both direct and indirect impacts where possible. Simplified approaches may be appropriate where resources are limited.
- Establish governance processes that support due process, policy quality and alignment with national priorities and other policy measures.

Design:

- Carefully determine the type, targeting and generosity of incentives to encourage investment that would not otherwise occur, while minimising unnecessary costs and market distortions.
- Balance trade-offs between different design options, taking into account policy objectives, government capability and local circumstances. Where ideal policy settings are not feasible, governments should seek improved “second-best” approaches by limiting costs and linking benefits to genuine economic activity.
- Ensure incentives are designed with clear and measurable eligibility criteria to support effective monitoring and evaluation.

Implementation:

- Maintain transparent and predictable application processes to reduce uncertainty and compliance costs for investors, while also lowering administrative burdens for governments.
- Encourage taxpayer self-assessment of eligibility and minimise excessive discretion in the selection of beneficiaries.
- Clearly allocate responsibilities among government agencies involved in granting incentives and strengthen inter-agency cooperation, verification processes and data sharing.

Monitoring:

- Collect and maintain data on key performance indicators, including beneficiaries, uptake rates and the value of tax concessions provided.
- Improve government capability to monitor how incentives operate in practice through stronger data systems, better information sharing and reduced compliance burdens for businesses.

Evaluation:

- Evaluate both the direct and indirect impacts of incentives to assess their effectiveness and efficiency.
- Tailor evaluation methods to the resources and data available, beginning with descriptive analysis where necessary and building more advanced capabilities over time.
- Use independent evaluations to support decisions on reforming or removing incentives that do not provide value for money.

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ATO Rulings and Activity

ATO focus areas for 2026 tax time

With the 2026 tax season approaching, the ATO has announced it will be closely monitoring areas where taxpayers commonly make mistakes, particularly work-related deductions and expenses, as well as undeclared income.

Taxpayers working from home can calculate their deductions using one of two methods:

- Actual cost method – requires records of all expenses being claimed, along with evidence showing the work-related portion of those expenses.
- Fixed rate method – allows taxpayers to claim 70 cents per hour worked from home, covering additional running costs such as internet, phone use, electricity and stationery, which can otherwise be difficult to divide between personal and work use.

To make lodging simpler, taxpayers can use the myDeductions feature in the ATO app to keep track of expenses and either share them directly with their tax agent or upload them as part of their pre-fill information.

The ATO is also reminding Australians to declare all sources of income in their tax returns, including side hustles, cash payments, interest earnings and rental income.

Examples of unusual but legitimate work-related deductions include:

- Flight attendants claiming specialised footwear where it is a mandatory requirement of their employer.
- Security guards claiming expenses related to guard dogs.
- Fitness and sporting industry employees claiming sunscreen, hats and sunglasses when working outdoors for extended periods.
- Hairdressers and beauty professionals claiming professional-grade scissors.

The ATO is further warning taxpayers to be cautious of incorrect or misleading tax advice this year, particularly claims promoting larger refunds, shortcuts or "tax hacks."

The ATO has observed an increase in tax-related content and tips being shared online and is encouraging Australians to verify information carefully before relying on it.

ATO Assistant Commissioner Anita Challen said taxpayers should think carefully before acting on advice from third-party sources such as artificial intelligence platforms, financial influencers or even family and friends.

For further information, please refer here.

ATO updated practice statement on valuation of goods from trading stock

The ATO has updated its practice statement dealing with the valuation of goods taken from trading stock for private use by sole traders and partners in a partnership.

Law Administration Practice Statement (General Administration) PS LA 2004/3 (GA) has been revised to remove the reference to Taxation Determination TD 2024/8, which relates to the value of goods taken from stock for private use during the 2024–25 income year.

The updated practice statement instead directs taxpayers to the relevant information available on the ATO website. In addition, the ATO has made several minor editorial amendments and updated the document to align with current ATO drafting style and formatting requirements for practice statements.

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ATO Rulings and Activity (Cont.)

Draft update to ruling on meaning of "employer"

The ATO has released a draft update to Taxation Ruling TR 2013/1 to ensure consistency with Taxation Ruling TR 2023/4, Income tax and superannuation guarantee: who is an employee?, as well as recent High Court and Full Federal Court decisions concerning the meaning of “employee” and “employer”.

TR 2013/1 outlines the meaning of “employer” for the purposes of the short-term visit exception contained in the Income from Employment Article of Australia’s tax treaties (or equivalent provisions).

The draft update clarifies that the identity of the employer is determined by assessing whether a non-resident individual provides services within an employment relationship, applying the meaning of “employee” under Australian tax law in a manner consistent with the object and purpose of the treaty exception.

Where the short-term visit exception applies, taxing rights over the employee’s remuneration are allocated exclusively to the employee’s country of residence.

Employers reminded of super stapling and disclosure rules

The ATO has reminded employers that, when onboarding new employees, information about an employee’s existing superannuation fund must be displayed alongside any promotion or advertisement of alternative super funds.

Since the introduction of superannuation stapling in 2021, the system has helped significantly reduce the creation of duplicate super accounts and the additional fees associated with them. Recent legislative changes now reinforce the requirement for employers to provide employees with details of their existing super fund together with any alternative fund options, helping employees make informed choices and avoid holding multiple unnecessary accounts.

The ATO is also encouraging employers to obtain stapled fund details directly through the ATO’s authorised processes. According to the ATO, these processes verify that a genuine employment relationship exists before any super fund information is released, providing an important safeguard against fraud.

The ATO said that using the correct procedures helps ensure employees receive the full benefits of the stapling system.

For further information, please refer to ATO website.

ATO comments on retrospective aspect of changes to foreign resident CGT regime

The ATO has stated that, if the proposed retrospective changes to the foreign resident capital gains tax (CGT) regime become law, it does not expect to alter its current compliance approach for disposals already under review or those that occurred within the past four years.

Treasury is currently consulting on the draft legislation titled Strengthening the foreign resident capital gains tax regime, with consultation closed on 24 April 2026.

According to the ATO, the draft legislation confirms, with retrospective effect, its long-standing interpretation that the term “real property” should not be confined to a narrow technical legal definition.

In a statement, the ATO said the proposed law aligns with the way it has historically administered the regime and, if enacted, would not require any change to its existing administrative approach.

ATO Rulings and Activity (Cont.)

In practical terms, the ATO said it would continue applying its current compliance practices to disposals that:

- Are presently under review, or
- Occurred within the previous four years.

The ATO also noted that it generally does not review disposals older than four years, even where the formal review period may still technically remain open. However, it may examine older cases in limited circumstances, such as where a taxpayer seeks a ruling involving the amended law and retrospective implications need to be considered.

ATO comments on retrospective aspect of changes to foreign resident CGT regime (Cont.)

Similarly, the ATO stated it does not intend to reopen settlements that were intended by both parties to be final, except in very limited and exceptional cases.

The ATO said it expects the retrospective amendments, if enacted, to affect only a relatively small number of taxpayers. The changes are intended primarily to clarify the law for taxpayers already under review or those who would ordinarily fall within the ATO's compliance focus.

For further information, please refer to the ATO website.

ATO updated guideline on transfer pricing issues related to inbound distribution arrangements updated

The ATO has updated its guidance on the transfer pricing risk assessment framework for inbound distribution arrangements in its Practical Compliance Guideline PCG 2019/1.

PCG 2019/1 outlines the ATO's approach to assessing the transfer pricing risk of inbound distribution arrangements. Under the guideline, the ATO applies a series of profit markers to determine whether a taxpayer falls within a low, medium or high-risk category, based on profitability outcomes and the industry sector in which the business operates.

As part of the update, the ATO has clarified the scope of the guideline and the reportable tax position schedule by introducing a "white zone" for certain taxpayers. Taxpayers in the white zone — such as those that have recently obtained high assurance ratings for their transfer pricing arrangements — will generally not be subject to further ATO compliance activity in relation to inbound distribution arrangements, except to confirm they remain consistent with the agreed approach.

The ATO has indicated it will continue to monitor, test and verify transfer pricing outcomes for inbound distribution arrangements that fall outside the low-risk category. Businesses classified as high risk are more likely to be prioritised for review.

The changes to PCG 2019/1 are intended to better reflect current market conditions, industry observations and the ATO's administrative practices, while also clarifying the guideline's application.

One key change is the removal of the word "predominantly" from the definition of an "inbound distributor." This broadens the scope of the guideline to include businesses that undertake distribution activities, even where distribution is not their primary business activity.

The ATO has also updated the definition of a "digital product distributor," excluding certain arrangements from the risk assessment framework. For example, entities that make a significant contribution to the delivery of digital products, such as by owning or operating substantial equipment in Australia to host or provide the products being sold, will no longer be regarded as distributors under the revised definition.

ATO Rulings and Activity (Cont.)

ATO interim decision impact statement on Commissioner of Taxation v Hall [2026]

The ATO has issued an interim decision impact statement in response to *FC of T v Hall* 2026 ATC; [2026] FCAFC 43, a case concerning occupancy and car expenses claimed by a taxpayer during Melbourne's COVID-19 restrictions.

In this matter, the Full Federal Court unanimously allowed the Commissioner's appeal against the ART decision reported at 2025 ATC; [2025] ARTA 600. The ART had previously permitted a sports presenter/producer to claim deductions for occupancy expenses (being part of the rent attributable to a home office) and car expenses incurred travelling between the home office and the employer's workplace during the pandemic.

The Full Federal Court overturned that decision, holding that the ART had erred in law in allowing deductions for both the "additional rent" and the car expenses. The Court found that the rent expenses retained their private or domestic character under s 8-1(2)(b), while the car expenses were not incurred in the course of producing assessable income.

ATO view of the decision:

The Full Federal Court's decision is consistent with the ATO's existing guidance on the deductibility of occupancy and work-related transport expenses, including:

- Taxation Ruling TR 93/30 – *Income tax: deductions for home office expenses*.
- Taxation Ruling TR 2021/1 – *Income tax: when are deductions allowed for employees' transport expenses?*
- Employees guide for work expenses.

As a general principle, expenses associated with a taxpayer's home, such as rent, are considered private or domestic in nature and are therefore not deductible. An exception may apply where part of the home is used for income-producing activities and qualifies as a "place of business", causing the expense to lose its private or domestic character.

The Full Federal Court confirmed that simply setting aside a room in the home for work purposes during COVID-19 lockdowns is insufficient to justify a deduction for part of the rent. The Court also clarified that the positive and negative limbs of s 8-1 operate cumulatively, requiring a separate assessment of whether the expense is private or domestic in nature.

Similarly, travel between home and a regular workplace is generally not deductible, except in limited circumstances. Performing some work duties from home does not convert travel expenses to and from the regular workplace into deductible expenses, as such travel is considered a prerequisite to earning assessable income rather than part of the income-producing activity itself.

The Full Federal Court further confirmed that this position is unchanged even where the travel occurs during work hours, and that COVID-19 lockdown arrangements requiring employees to work partly from home do not alter this outcome.

ATO Rulings and Activity (Cont.)

Class Rulings Issued:

- Class Ruling CR 2026/12 Europa Metals Ltd – reduction of share capital. This ruling applies from 1 July 2025 to 30 June 2026.
- Class Ruling CR 2026/13 Locate Technologies Limited – scheme of arrangement. This ruling applies from 1 July 2025 to 30 June 2026.
- Class Ruling CR 2026/14 Cawarra Residential Limited – deductibility of donations under a payment direction deed. This ruling applies from 1 July 2025 until 30 June 2029. However, if the scheme carried out is no longer implemented by Cawarra or the scheme implemented is materially different from the scheme that is described in this Ruling, then this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled, and may be withdrawn or modified.
- Class Ruling CR 2026/15 Department of Climate Change, Energy, the Environment and Water (New South Wales) – biodiversity stewardship agreements. This ruling applies to entities that enter into the scheme from 1 July 2025 to 30 June 2030.
- Class Ruling CR 2026/16 Department of Climate Change, Energy, the Environment and Water (New South Wales) – biodiversity stewardship agreements established to satisfy development approval conditions for an activity, development or clearing on an impact site held on capital account. This ruling applies to entities that enter into the scheme from 1 July 2025 to 30 June 2030.
- Class Ruling CR 2026/17 Atrum Coal Limited – return of capital. This ruling applies from 1 July 2025 to 30 June 2026.
- Class Ruling CR 2026/18 Seven West Media Limited – acquisition by Southern Cross Media Group Limited – employee share scheme. This ruling applies from 1 July 2025 to 30 June 2026.

Other Rulings Issued:

- Product Ruling PR 2026/2 FTC Automator platform – use by clients of KPMG and Mobile Tracking and Data Pty Ltd to calculate fuel tax credits. The ruling applies to taxable fuel acquired on or after 1 July 2024 to 30 June 2030 by the class of entities defined in paragraphs 7 and 8 of this ruling that enter the scheme for the fuel tax credit results from the FTC Automator with source telematics and GPS data from MTData.

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Latest Australian Tax Cases

Brisbane Club v FC of T (No 2) 2026 ATC; 2026 FCA 521, 28 April 2026:

In the Federal Court matter Brisbane Club v FC of T 2026 ATC; [2026] FCA 220, the Court has determined that an amount of $928,378 should be treated as part of the cost base of a pre-CGT building, rather than being allocated to the cost base of a post-CGT sublease. The dispute arose in the context of the sale of the Brisbane Club Tower, where the taxpayer had been partly successful in having a capital gains tax (CGT) assessment set aside. A key issue in the proceedings was how certain expenditure should be characterised for CGT purposes—specifically whether it properly related to the original pre-CGT asset or a later-created post-CGT interest. The Court concluded that the expenditure in question had a sufficient connection to the underlying building asset and therefore formed part of its cost base. This meant it could not be separately attributed to the post-CGT sublease arrangement, which would have had different CGT consequences. The decision reinforces the importance of correctly identifying the relevant CGT asset when allocating acquisition and improvement costs, particularly in situations where pre-CGT assets are later subject to restructuring, leasing arrangements, or partial disposals.

Botella & Anor v FC of T 2026 ATC; [2026] ARTA 604, 16 April 2026:

The Administrative Review Tribunal (ART) upheld most of the Commissioner's tax decisions against a plumber, finding that he had been correctly assessed on several grounds. The Tribunal agreed that the taxpayer was treated as having received a deemed dividend because there was no compliant written loan agreement under Division 7A of the ITAA 1936. It also found that the arrangements involving the taxpayer and related entities constituted a dividend stripping scheme, and that the associated scheme penalty imposed by the Commissioner should stand. In addition, the Tribunal confirmed that extra tax on concessional superannuation contributions was properly applied. However, the taxpayer achieved a limited concession. The Commissioner accepted that an unpaid payroll tax liability accrued as at 30 June 2018 constituted a present legal obligation for the purpose of calculating the company's distributable surplus. This reduced the deemed dividend amount on which income tax was ultimately payable.

ZBDD v FC of T 2026 ATC; [2026] ARTA 553, 8 April 2026:

The ART has confirmed the Commissioner's disallowance of most of the input tax credits claimed by an online course provider for its contractor costs albeit partly remitted the penalties imposed for recklessness.

Hui v FC of T 2026 ATC; [2026] ARTA 570, 24 March 2026:

The Administrative Review Tribunal (ART) has largely rejected a regional Queensland pharmacist's claims for deductions relating to mobile phone use, travel and vehicle expenses, as well as accommodation and meals. The Tribunal was not satisfied that the expenses were sufficiently connected to the taxpayer's income-earning activities, and therefore found they were not incurred in gaining or producing assessable income. As a result, most of the deductions claimed were disallowed.

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Monthly Tax Update

May 2026

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
MELBOURNE | SYDNEY

www.au.Andersen.com

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