Monthly Tax Update

October 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

Legislation strengthening tax practitioner regulation and foreign resident CGT rules receives Royal Assent

The Treasury Laws Amendment (Strengthening Accountability for Tax Adviser Misconduct and Other Measures) Bill 2026 has received Royal Assent and is now law as Act No. 86 of 2026, dated 15 September 2026.

The Act introduces stronger enforcement measures for tax practitioner misconduct, changes to the foreign resident capital gains tax (FRCGT) and withholding regimes, and several other tax-related amendments.

Key measures include:

- **Schedule 1** – Tax practitioner regulation: Expands the Tax Practitioners Board's (TPB) regulatory and enforcement powers, introduces new criminal offences for certain unregistered tax practitioners, increases civil penalties and establishes infringement notices and enforceable undertakings.
- **Schedule 2** – FRCGT and withholding: Strengthens the FRCGT regime by broadening and clarifying the scope of taxable Australian real property, modifying the principal asset test and amending foreign resident withholding arrangements.
- **Schedule 3** – Renewable energy assets: Introduces a transitional 50 per cent CGT discount for certain foreign residents disposing of Australian renewable energy assets, available until 30 June 2040.
- **Schedule 6** – Deductible gift recipients: Adds three new specifically listed deductible gift recipients (DGRs), extends the listing period for two existing DGRs and updates the name of one listed entity.
- **Schedule 7** – Ancillary funds: Renames "Public Ancillary Funds" and "Private Ancillary Funds" as "Public Giving Funds" and "Private Giving Funds", respectively.
- **Schedule 8** – Foreign resident CGT withholding credits: Allows taxpayers to claim credits for amounts withheld under the foreign resident CGT withholding regime in the same income year in which the underlying transaction is recognised for income tax purposes, provided the amount withheld has been paid to the Commissioner of Taxation.

These amendments change tax practitioner regulation, property taxation, renewable energy investment and charitable giving. Tax practitioners, property investors and other affected taxpayers should review the relevant provisions to understand how the changes may affect their obligations and entitlements.

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Other Legislation Update

ASIC remakes relief instrument for attribution managed investment trusts

A new legislative instrument has been made to continue regulatory relief for attribution managed investment trusts (AMITs), maintaining existing arrangements for responsible entities operating these schemes.

The new instrument repeals and replaces ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2016/489, which was due to sunset on 1 October 2026. The replacement continues the existing relief arrangements.

The ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2026/726 (F2026L01287) provides two key forms of relief.

Firstly, it exempts responsible entities of registered AMITs from the obligation under Chapter 5C of the Corporations Act 2001 to treat members holding interests of the same class equally when making attributions in accordance with the Income Tax Assessment Act 1997.

Secondly, the instrument establishes an alternative procedure for responsible entities to modify, or repeal and replace, a scheme's constitution to enable the scheme to operate as an AMIT in accordance with the Income Tax Assessment Act 1997, without having to fully comply with section 601GC of the Corporations Act 2001.

The instrument commenced on 25 September 2026, the day after its registration on the Federal Register of Legislation.

Code of Professional Conduct updated to support strengthened TPB sanctions

The requirements under the Code of Professional Conduct (the Code) for registered tax practitioners have been amended to ensure clients are informed of a broader range of sanctions that may be imposed under the strengthened enforcement framework in the Tax Agent Services Act 2009.

The Tax Agent Services (Code of Professional Conduct) Determination 2024 establishes additional professional and ethical obligations for registered tax practitioners, building on the Code's existing principles of honesty and integrity, independence, confidentiality and competence.

The Tax Agent Services (Code of Professional Conduct) Amendment (Enhancing Tax Practitioners Board Sanctions) Determination 2026 amends these requirements to reflect changes introduced by Schedule 1 to the Treasury Laws Amendment (Strengthening Accountability for Tax Adviser Misconduct and Other Measures) Act 2026.

The amending Act introduced new and expanded enforcement measures, including additional offences, civil penalties, powers to suspend tax practitioners' registrations and other enforcement powers for the Tax Practitioners Board (TPB). The amendments to the Determination require information about a tax practitioner's conduct that results in a sanction under the Act to be provided to clients in certain circumstances, consistent with existing disclosure requirements. This is intended to help taxpayers make informed decisions when engaging a tax practitioner by ensuring they have relevant information about the practitioner's suitability to provide tax agent services.

The amendments also include technical changes to clarify the intended operation of the Determination.

Public consultation on the exposure draft of the amending instrument was conducted from 3 to 14 August 2026.

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Other Legislation Update (Cont.)

Foreign resident CGT withholding instruments consolidated

A new legislative instrument has been registered to consolidate five existing class variation instruments under the foreign resident capital gains withholding (FRCGW) regime. The consolidation is intended to make it easier for taxpayers and advisers to identify when a variation to the withholding amount applies in specified circumstances.

Previously, the Commissioner of Taxation exercised the power under section 14-235(5) of Schedule 1 to the Taxation Administration Act 1953 to vary classes of amounts subject to withholding under Subdivision 14-D. The variations were set out in five separate legislative instruments covering:

- PAYG Withholding variation for foreign resident capital gains withholding payments – acquisitions from multiple entities (F2016L01123)
- PAYG Withholding variation for foreign resident capital gains withholding payments – deceased estates and legal personal representatives (F2016L01396)
- PAYG Withholding variation for foreign resident capital gains withholding payments – income tax exempt entities (F2017L00390)
- PAYG Withholding variation for foreign resident capital gains withholding payments – marriage or relationship breakdowns (F2016L01642), and
- PAYG Withholding variation for foreign resident capital gains withholding payments – no residue after a mortgagee exercises a power of sale 2020 (F2020L01291).

The Taxation Administration (PAYG Withholding Variation for Foreign Resident Capital Gains Withholding Payments) Legislative Instrument 2026 (the Consolidating Instrument) repeals and replaces the five instruments from 17 September 2026.

With the exception of the variation relating to acquisitions from income tax-exempt entities, the Consolidating Instrument maintains the effect of the previous arrangements. For income tax-exempt entities, the evidentiary requirements that must be satisfied for the variation to apply have also been amended.

Taxpayers and advisers involved in transactions subject to FRCGW should review the consolidated instrument to determine whether a withholding variation applies and ensure the relevant eligibility and evidentiary requirements are able to be met.

GST tax invoice requirement waiver extended for law enforcement agencies

A new GST determination has been finalised, continuing the waiver of tax invoice requirements for government law enforcement agencies claiming input tax credits for certain reimbursed expenses incurred by employees or agents operating under assumed names.

Government law enforcement agencies are government-related entities that undertake activities to prevent criminal behaviour. In carrying out these duties, employees or agents may need to use an assumed name.

The A New Tax System (Goods and Services Tax) (Waiver of Tax Invoice Requirement – Reimbursement of Acquisitions Made Using an Assumed Name) Determination 2026 allows eligible government law enforcement agencies to claim input tax credits for qualifying acquisitions without holding a tax invoice, where the acquisition relates to the reimbursement of certain expenses incurred by an employee or agent using an assumed name.

The new determination repeals and replaces the Goods and Services Tax: Waiver of Tax Invoice Requirement Determination (No 40) 2016 – Government Undercover Agents, which was otherwise due to sunset on 1 October 2026.

Other Legislation Update (Cont.)

GST determination remade to preserve GST-free treatment of adult and community education courses

A new GST determination has been made to maintain the GST-free treatment of eligible adult and community education courses, with no substantive changes to the existing eligibility requirements.

Under section 38-85 of the A New Tax System (Goods and Services Tax) Act 1999, supplies of qualifying education courses, including adult and community education courses determined by the Student Assistance Minister, are GST-free.

The A New Tax System (Goods and Services Tax) (Adult and Community Education Course) Determination 2026 specifies the courses that qualify for this treatment. To be eligible, a course must:

- Not fall within the excluded categories of education courses specified in section 195-1 of the GST Act.
- Be available to adults in the general community.
- Not be provided by, or at the request of, an employer to its employees.
- Not be provided by, or at the request of, an organisation to its members, unless membership is open to adults in the general community.
- Not be provided as private tuition to an individual.

The determination also covers qualifying courses provided by, or on behalf of, a not-for-profit body corporate, provided it has not been refused recognition or disqualified by a relevant state or territory authority for failing to meet or maintain the required standards.

The new determination repeals and replaces the A New Tax System (Goods and Services Tax) (Adult and Community Education Courses) Determination 2016, which was due to sunset on 1 October 2026. The replacement preserves the existing scope of eligible courses without making substantive changes to the requirements.

The new determination commenced on 19 September 2026, the day after its registration on the Federal Register of Legislation.

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OECD Update

OECD BEPS Pillar Two: Updated global minimum tax guidance and reporting requirements

The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) has released further materials to support the implementation and consistent application of the Global Minimum Tax (GMT) under BEPS Pillar Two. The materials cover the legislative review framework, an updated GloBE Information Return (GIR) and additional administrative guidance on the GloBE Model Rules.

Framework for legislative reviews

The Terms of Reference and Methodology for the Full Legislative Review establish the framework that Inclusive Framework members will use to assess whether domestic legislation implementing the GMT is consistent with the GloBE Model Rules and Commentary.

The framework enables members to conduct peer reviews of the implementing jurisdictions' legislation. Where inconsistencies are identified, the Inclusive Framework will provide recommendations to help jurisdictions address them.

The review process aims to promote consistent application of the GMT across jurisdictions, maintain a level playing field, provide greater tax certainty and reduce compliance costs for businesses through more consistent and coordinated outcomes.

Updated GloBE Information Return (GIR)

The GIR provides a standardised reporting framework to support compliance with and administration of the GMT. Following its initial release in 2023 and a subsequent update in January 2025, the OECD has revised the GIR to incorporate changes agreed under the Side-by-Side Package released in January 2026.

The revised GIR is to be used only for reporting fiscal years commencing on or after 31 December 2025. A corresponding update to the GIR XML Schema is being developed to reflect the agreed changes.

Further guidance on the GloBE Model Rules

The Inclusive Framework has also issued additional Administrative Guidance addressing two areas of the GloBE Model Rules.

- Explicitly conditional taxes

  The Side-by-Side Package confirmed that conditional or discriminatory taxes are not creditable as *Covered Taxes* under the GloBE rules and indicated that further guidance would be developed to support consistent application of this principle.

  The new guidance clarifies that taxes explicitly imposed on taxpayers only where they are subject to the Income Inclusion Rule (IIR) or Undertaxed Profits Rule (UTPR) in another jurisdiction cannot be treated as Covered Taxes.

  Further guidance is expected on other tax features that may constitute discrimination and prevent a tax from qualifying as a Covered Tax, with the Inclusive Framework aiming to release this guidance by the end of 2026.

- Local financial accounting standards under a QDMTT

  The guidance also addresses the application of the Qualified Domestic Minimum Top-up Tax (QDMTT) Safe Harbour where fiscal periods do not align.

  In certain circumstances, a QDMTT must be calculated using financial accounts prepared under the relevant local financial accounting standard. The guidance clarifies that the QDMTT Safe Harbour can continue to apply where the QDMTT fiscal period differs from the fiscal year of the ultimate parent entity (UPE), provided the applicable conditions are satisfied.

  These OECD updates provide further clarification on the implementation and administration of the global minimum tax framework, particularly in relation to legislative consistency, reporting obligations and the treatment of taxes under the GloBE rules.

For further information, please refer to the OECD website.

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Other Updates

Exposure draft legislation proposes expanded tax incentives for venture capital schemes

Exposure draft legislation has been released to implement the 2026–27 Budget measure to expand tax incentives for venture capital schemes, with proposed changes to take effect from 1 July 2027.

The proposed changes include increasing the asset value thresholds for eligible investee entities and the fund size limit for Early Stage Venture Capital Limited Partnerships (ESVCLPs), as follows:

- Venture Capital Limited Partnerships (VCLPs): increase the asset value threshold for eligible investee entities from $250 million to $480 million.
- Early Stage Venture Capital Limited Partnerships (ESVCLPs): increase the asset value threshold for eligible investee entities from $50 million to $80 million.
- ESVCLP fund size: increase the maximum fund size from $200 million to $270 million.
- ESVCLP tax exemption threshold: increase the threshold at which certain investment returns may be fully tax exempt from $250 million to $420 million.

The draft legislation also proposes to close the Eligible Venture Capital Investor program to new applications from 7.30 pm (AEST) on 12 May 2026.

Submissions on the exposure draft legislation closed on 28 September 2026.

For further information, please refer here.

Exposure draft legislation proposes changes to the R&D tax incentive

Exposure draft legislation has been released to implement the 2026–27 Budget measure proposing reforms to the Research and Development (R&D) Tax Incentive (R&DTI). The proposed changes are intended to adjust eligibility requirements, offset rates and expenditure thresholds, with effect from 1 July 2028.

The proposed reforms include:

- Increase the core R&D offset: increase the core R&D offset rates by 4.5 percentage points, lifting the net tax benefit for experimental core R&D expenditure by approximately 25 per cent to 50 per cent.
- Exclude supporting R&D expenditure: remove supporting R&D expenditure from eligibility for the R&DTI.
- Lower the intensity threshold: reduce the threshold from 2 per cent to 1.5 per cent, allowing more businesses to qualify for higher offset rates.
- Expand access to refundable offsets: increase the turnover threshold for businesses less than 10 years old from $20 million to $50 million, providing greater access to the highest refundable tax offset. An equivalent non-refundable offset would be available to eligible businesses that are more than 10 years old.
- Increase the maximum expenditure threshold: raise the maximum R&D expenditure eligible for the incentive from $150 million to $200 million.
- Increase the minimum expenditure threshold: raise the minimum eligible expenditure from $20,000 to $50,000. R&D projects with expenditure below $50,000 would need to be undertaken with a recognised research organisation to support quality research outcomes.

The draft legislation also proposes specific provisions for biotechnology and medical technology businesses, recognising their longer product development cycles and regulatory approval processes. Eligible businesses in these sectors would be able to

Other Updates (Cont.)

access the refundable tax offset for up to 15 years.

The Government's stated aims are to simplify the R&DTI, encourage additional business investment in R&D and improve the long-term sustainability of the program.

Submissions on the exposure draft legislation closed on 28 September 2026.

For further information, please refer here.

Exposure draft legislation proposes CGT concession for start-up investments

Treasury has released exposure draft legislation for the proposed Innovative Business Capital Gains Tax Concession (IBCC). The concession would provide eligible investors with a 50 per cent CGT discount on qualifying early-stage investments in innovative Australian start-ups.

Under the proposal, eligible capital gains from IBCC assets would qualify for a 50 per cent discount where the relevant CGT event occurs on or after 1 July 2027. The asset must generally be an equity interest issued directly by a qualifying IBCC company and held at risk for at least three years. Transitional rules would extend the concession to certain eligible interests issued before 1 July 2027.

The concession would be available only where the taxpayer chooses the CGT discount rather than cost-base indexation. Companies, complying superannuation entities and foreign residents would not be eligible.

To qualify as an IBCC company, a start-up would generally need to be:

- incorporated for less than 15 years;
- Australian-based, unlisted and not controlled by a company incorporated 15 or more years ago;
- within the $50 million aggregated turnover threshold;
- predominantly developing a genuinely innovative product, process, service or method for commercialisation; and
- registered with the Industry Secretary and compliant with annual reporting obligations.

An interest could become a disqualified asset if the company's activities change or it fails to satisfy annual reporting obligations. The Industry Secretary would be able to establish safe harbours through legislative instruments, while public and private rulings could assist companies and investors in applying the eligibility rules.

The concession would also extend to certain carried-interest payments received by general partners in VCLPs, ESVCLPs and other specified venture capital structures, to the extent the payment represents a capital gain from an IBCC asset. The same taxpayer exclusions would apply.

Treasury also released a draft legislative instrument to help companies incorporated before 1 July 2027 self-assess against the innovation requirements. A separate instrument is expected for companies incorporated on or after that date.

Submissions on the exposure draft legislation and draft instrument closed on 28 September 2026.

For further information, please refer here.

Exposure draft legislation proposes monthly PAYG instalment reporting and payments

Exposure draft legislation has been released to implement the 2026–27 Budget measure aimed at expanding monthly reporting and payment requirements for Pay As You Go (PAYG) instalments.

The proposed changes would take effect from 1 July 2027 and would:

- Allow more taxpayers to report and pay monthly: taxpayers required to report and pay PAYG instalments would be able to do so on a monthly basis.
- Require monthly reporting for non-compliant taxpayers: taxpayers with a demonstrated history of non-compliance with their tax obligations would be required to report and pay their PAYG instalments monthly.

Submissions on the exposure draft legislation closed on 28 September 2026.

For further information, please refer here.

ATO Rulings and Activity

ATO releases 2024–25 corporate tax transparency report

The ATO has released its annual corporate tax transparency report for the 2024–25 income year, analysing tax return data from some of the largest corporations operating in Australia.

The report provides insights into trends in total income, taxable income and tax payable, with breakdowns by industry and ownership group.

The corporate tax transparency population includes corporate tax entities with total income of at least $100 million, as well as entities with a petroleum resource rent tax (PRRT) liability.

Key findings:

- Corporate population and tax outcomes
  The report covers 4,299 entities, representing a net increase of 189 entities (4.6 per cent) from the previous year. While aggregate total income continued to rise, taxable income and tax payable declined for the second consecutive year.
  - Total income increased by 1.9 per cent to $3,342.2 billion.
  - Taxable income decreased by 9.9 per cent to $329.2 billion.
  - Tax payable decreased by 8.6 per cent to $87.5 billion.

- Tax contributions by ownership group
  Australian public and private entities accounted for 57.6 per cent of the corporate transparency population and contributed 61 per cent of total tax payable. The breakdown was as follows:
  - Australian public entities: 13.8 per cent of entities and 48.1 per cent of tax payable.
  - Australian private entities: 43.8 per cent of entities and 12.9 per cent of tax payable.
  - Foreign-owned entities: 42.4 per cent of entities and 39.0 per cent of tax payable.

- Tax payable remains concentrated among larger entities
  - Entities with total income exceeding $5 billion represented just 2.2 per cent of the population but accounted for 52.7 per cent of tax payable, contributing $46.1 billion.
  - Entities with income between $250 million and $5 billion represented 43.0 per cent of the population and contributed $34.0 billion, or 38.9 per cent of tax payable.
  - By comparison, entities with income below $250 million made up 54.8 per cent of the population but accounted for only $7.3 billion, or 8.4 per cent of tax payable.

- Mining, Energy and Water remains the largest contributor
  The Mining, Energy and Water segment remained the largest contributor to corporate tax payable, despite recording the only year-on-year decline among industry segments.
  - The segment contributed $35.9 billion, representing 41.1 per cent of total tax payable.
  - This was a decrease of 25.8 per cent, or $12.5 billion, compared with the previous year.
  - All other industry segments recorded increases in tax payable.

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ATO Rulings and Activity (Cont.)

- Proportion of nil taxpayers reaches a 12-year low
  Approximately 27 per cent of entities paid no tax in 2024–25, the lowest proportion recorded in the 12 years of corporate tax transparency reporting.

- The reported reasons for nil tax payable were:
  - Accounting loss: 12 per cent.
  - Tax loss: 4 per cent.
  - Use of tax offsets: 2 per cent.
  - Use of tax losses from previous years: 9 per cent.

- PRRT collections increase
  The number of entities paying PRRT increased from 16 to 21, while PRRT payable rose by 26.3 per cent, from $1,483.3 million to $1,872.8 million. This was the second-highest amount of PRRT payable recorded since reporting began.

ATO releases 2024–25 corporate tax transparency report (Cont.)

The 2024–25 report shows that aggregate corporate income continued to grow, while taxable income and tax payable declined for a second consecutive year. Tax contributions remained concentrated among the largest entities, with the Mining, Energy and Water sector continuing to account for the largest share of tax payable despite a 25.8 per cent year-on-year reduction. Meanwhile, the proportion of entities paying nil tax reached its lowest level in the reporting series.

For further details, please refer to the ATO website.

ATO updates guidance on PAYG withholding annual reports

The Australian Taxation Office (ATO) has updated its guidance on the Pay As You Go withholding (PAYGW) annual report for interest, dividend and royalty payments made to non-residents.

The updated guidance includes links to the latest online annual report template and a new completion guide to help taxpayers and tax agents meet their reporting obligations.

The completion guide explains when and how to lodge the annual report and provides step-by-step instructions for completing the template and submitting it through Online services for business or Online services for agents.

Taxpayers and tax agents responsible for reporting these payments should refer to the updated ATO guidance to ensure they use the latest template and follow the applicable lodgment procedures.

ATO publishes third R&D tax incentive transparency report

The ATO has released its third annual Research and Development (R&D) Tax Incentive Transparency Report, detailing companies that claimed the R&D tax incentive for the 2023–24 income year.

The report highlights the scale of R&D investment and participation in the program, with almost $17 billion invested in eligible R&D activities during the year.

Key findings from the report include:

Participation: A total of 13,490 entities claimed the R&D tax incentive, comprising 6,920 small business entities (51 per cent), 4,116 privately owned and wealthy group entities (31 per cent), 2,449 public and multinational entities (18 per cent) and five not-for-profit entities.

ATO Rulings and Activity (Cont.)

- **R&D investment:** Public and multinational companies accounted for the largest share of R&D expenditure, investing $9 billion, or 54 per cent of the total. Privately owned and wealthy groups accounted for a further 28 per cent.
- **Small business growth:** Small businesses recorded the largest increase in R&D expenditure, rising by 28 per cent to $3.1 billion.
- **Industry sectors:** The professional, scientific and technical services industry recorded the highest R&D expenditure, followed by the manufacturing sector.

The report includes both the original expenditure amounts claimed and any amended amounts reported by entities. However, adjustments made by the Commissioner of Taxation are excluded from publication.

ATO Deputy Commissioner Louise Clarke noted that the transparency report supports public accountability for R&D tax incentive claimants and encourages voluntary compliance. The ATO also uses sophisticated systems to identify potential non-compliance and conducts reviews and audits to verify claims.

The ATO is required to publish specified information about entities claiming the R&D tax offset under section 3H of the Taxation Administration Act 1953.

The R&D tax incentive operates on a self-assessment and self-registration basis and is jointly administered by the ATO and the Department of Industry, Science and Resources. For further information, please refer here.

ATO updates ruling on identifying an employer for tax treaty short-term visit exception

The ATO has issued an addendum to Taxation Ruling TR 2013/1 to reflect the High Court's decision in Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd [2022] HCA 1 and the Full Federal Court's decision in JMC Pty Ltd v Commissioner of Taxation [2023] FCAFC 76.

TR 2013/1 addresses how an "employer" is identified for the purposes of the short-term visit exception under the "Income from Employment" article, or its equivalent, in Australia's tax treaties.

The addendum clarifies that identifying the employer for this purpose requires consideration of both the ordinary meaning of "employee" under domestic tax law and the context, object and purpose of the relevant treaty provision.

The ruling has also been updated to refer to Taxation Ruling TR 2023/4, which explains the ordinary meaning of "employee". The ATO considers that applying the principles and factors in TR 2023/4 to determine an individual's employment status under domestic tax law will, in most cases, be unlikely, of itself, to result in the short-term visit exception being applied inconsistently with its intended purpose.

In addition, the addendum removes and revises certain material and examples in TR 2013/1 and makes consequential updates to treaty references, explanatory material and references to other ATO guidance.

The addendum applies both before and after its date of issue.

ATO updates guidance on temporary absences from foreign service

The ATO has issued an addendum to Taxation Determination TD 2012/8, which outlines when temporary absences from foreign service are treated as part of a continuous period of foreign service for the purposes of section 23AG of the Income Tax Assessment Act 1936.

The addendum clarifies that short, unexpected work-related absences from the foreign country, where the individual returns to Australia for reasons connected with their foreign service, will not be treated by the Commissioner as part of their continuous foreign service.

The addendum applies from the 2026–27 income year onwards.

ATO Rulings and Activity (Cont.)

ATO extends credit card payment arrangements to 30 June 2027

The ATO will continue accepting credit card payments until 30 June 2027, extending the transition period for phasing out the payment method.

This follows its earlier announcement that credit card payments would cease after 30 November 2026.

Under the revised arrangements, the government will provide transitional funding to allow the ATO to continue processing credit card payments until the new deadline. The cost of the extension will be confirmed in the forthcoming Mid-Year Economic and Fiscal Outlook.

The government will also consult on support for taxpayers experiencing financial hardship and explore alternative payment arrangements for those unable to use other payment methods.

From 1 July 2027, taxpayers will still be able to pay the ATO by credit card through third-party providers. The ATO will also continue to offer free and low-cost payment options, including debit card and bank transfer.

Taxpayers should review their payment arrangements ahead of the transition and consider the costs and timing of alternative payment methods.

For further details, please refer here.

ATO updates tax determination on the US GILTI regime

The ATO has issued an addendum to Taxation Determination TD 2022/9, updating its guidance on the United States' Global Intangible Low-Taxed Income (GILTI) regime following amendments to US legislation.

TD 2022/9 considers whether section 951A of the US *Internal Revenue Code* corresponds to sections 456 or 457 of the Income Tax Assessment Act 1936 (Cth) for the purposes of subsection 832-130(5) of the Income Tax Assessment Act 1997 (Cth). The determination concludes that it does not.

Section 951A is the assessing provision for the US GILTI regime, which is broadly designed to impose a minimum tax rate on GILTI. In contrast, sections 456 and 457 of the Australian legislation aim to deter the shifting of tainted income offshore to avoid or defer Australian tax.

The ATO considers that the underlying purpose and substance of section 951A differ from those of sections 456 and 457. Accordingly, section 951A does not qualify as a corresponding foreign law provision for the purposes of subsection 832-130(5).

The addendum updates TD 2022/9 to reflect changes to the US GILTI regime under US legislation and makes consequential amendments to the explanation of how section 951A operates.

Importantly, the addendum does not change the determination's original conclusion that section 951A does not correspond to sections 456 or 457 for the purposes of subsection 832-130(5).

The addendum applies from 1 January 2026.

ATO finalises guidance on Payday Super exceptional circumstances concessions

The ATO has finalised Law Administration Practice Statement PS LA 2026/2, outlining when the Commissioner may grant additional time for employers to meet their Payday Super obligations due to exceptional circumstances.

ATO Rulings and Activity (Cont.)

Under section 18C(4) of the Superannuation Guarantee (Administration) Act 1992, the Commissioner may make a determination covering one or more classes of employers affected by exceptional circumstances. These are limited to natural disasters and widespread outages of information and communications technology or other services that facilitate superannuation contributions. Determinations cannot be made for individual employers.

Where a determination applies, affected employers have an additional 20 business days to make eligible contributions on time. The calculation period depends on whether the determination is made before, or on or after, the relevant qualifying earnings (QE) day.

The practice statement clarifies that a determination may be appropriate where an event materially disrupts the systems or processes needed to make and allocate contributions. However, cash flow difficulties, an inability to fund contributions, routine operational issues and short-lived outages do not, by themselves, qualify. For natural disasters, there must also be a demonstrable link between the event and the employer class's inability to contribute on time.

The guidance also covers determination approval, record-keeping, communication and publication requirements. Any determination must be registered on the Federal Register of Legislation as soon as practicable.

Previously issued as draft PS LA 2026/D3, the final practice statement applies retrospectively from 1 July 2026.

ATO proposes GST guidance update for breakfast cereal products

The ATO has released a draft update to Goods and Services Tax Determination GSTD 2024/1, proposing a practical compliance approach for determining whether certain breakfast cereal products are taxable as "combination food" under section 38-3(1)(c) of the A New Tax System (Goods and Services Tax) Act 1999.

The proposed approach applies to breakfast cereal products that consist of a loose mix of dry ingredients, such as cereal, muesli or granola, and contain separately identifiable taxable food comprising 15 per cent or less of the total product weight, excluding packaging. This applies even where some ingredients are clustered together.

Businesses must retain sufficient records to support their assessment that a product meets the criteria, including calculations of the percentage of separately identifiable taxable food. Products containing more than 15 per cent of separately identifiable taxable food by weight are highly likely to be treated as taxable combination food.

Comments on the draft update can be submitted to the ATO until 20 November 2026.

ATO announces visa data-matching program for 2026–27 to 2028–29

The Australian Taxation Office (ATO) has announced a visa data-matching program under which it will obtain visa-related data from the Department of Home Affairs for the financial years 2026–27 to 2028–29. The program is expected to involve records relating to approximately 9 million individuals each financial year.

Under the Gazette notice: Commissioner of Taxation – Notice of a visa data-matching program 21 September 2026, published on 21 September 2026, the ATO will collect a range of information, including:

- Address and contact history for visa applicants, sponsors and migration agents.
- Records of visas granted and an individual's visa status at a particular point in time.
- Migration agent details and visa subclass information.
- International travel movements of visa holders.
- Sponsor details for subclass 457 visas.
- Education provider details for student visa holders.

ATO Rulings and Activity (Cont.)

The ATO has outlined several objectives for the program, including improving compliance with tax and superannuation obligations, encouraging voluntary compliance and identifying compliance risks involving visa holders, visa sponsors and migration agents.

The data will also be used to enhance the ATO's risk detection models and compliance strategies, identify emerging fraud methods and entities exploiting the visa framework, identify ineligible Australian Business Number (ABN) holders for potential cancellation, and support compliance activities under Australia's foreign investment rules.

The program will operate in accordance with the Office of the Australian Information Commissioner's Guidelines on data matching in Australian Government administration (2014). These guidelines establish standards for conducting government data-matching activities consistently with the Australian Privacy Principles, the Privacy Act 1988 and good privacy practices.

Community tip-offs help ATO target shadow economy activity

The ATO received more than 52,000 community tip-offs during the 2025–26 financial year about suspected shadow economy activities, including tax evasion and superannuation non-compliance.

ATO Assistant Commissioner Tony Goding highlighted the growing importance of community tip-offs in protecting compliant businesses and maintaining confidence in Australia's tax and superannuation systems. Information from workers, customers and competitors continues to provide valuable intelligence about potentially non-compliant practices.

The ATO said the hospitality industry accounted for more than 2,500 tip-offs nationally during 2025–26. These related to cafés and restaurants, catering businesses, pubs, taverns, bars and takeaway food outlets. Common allegations included:

- Businesses failing to declare all income.
- Employers demanding or paying cash-in-hand wages to avoid tax and other employment obligations.
- Businesses failing to pay the correct superannuation entitlements for employees.

Following intelligence gathered through community tip-offs, the ATO conducted more than 25 unannounced visits to fast-food outlets, restaurants and cafés across Melbourne's CBD on 22 and 23 September 2026 as part of Operation Tonberry. The ATO is investigating suspected non-compliance involving cash-in-hand payments to avoid tax obligations, unpaid employee superannuation, under-reported or undeclared income, and failures to meet reporting and record-keeping requirements.

The ATO has also provided information on its website explaining how individuals can report suspected shadow economy activity anonymously.

These developments highlight the ATO's continued focus on identifying and addressing shadow economy risks, with community intelligence playing an important role in directing compliance and enforcement activities.

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ATO Rulings and Activity (Cont.)

Class Rulings Issued:

- Class Ruling CR 2026/67 Australian Strategic Materials Limited – partial scrip for scrip roll-over. This ruling applies to shareholders specified in the Ruling from 1 July 2026 to 30 June 2027.
- Class Ruling CR 2026/68 EML Payment Solutions Limited - use of living expenses card facility to acquire a stored value prepaid card. This ruling applies from 1 April 2025 to 31 March 2030 to certain employers who take part in the scheme administered by EML Payment Solutions Limited.
- Class Ruling CR 2026/69 EROAD Australia Pty Ltd – Fuel Tax Credits Solution. This ruling applies to taxable fuel acquired on or after 1 July 2026 to 30 June 2028.
- Class Ruling CR 2026/70 Commonwealth Teaching Scholarship. The ruling applies from 1 July 2023 to 30 June 2031.
- Class Ruling CR 2026/71 SmarTrak Aust Pty Ltd – PoolCar booking system for fringe benefits tax car logbook and odometer records. This ruling applies both before and after its date of issue.
- Class Ruling CR 2026/72 Nova Minerals Limited – scrip for scrip roll-over for shareholders. This ruling applies from 1 July 2025 to 30 June 2026.
- Class Ruling CR 2026/73 The Trustee for the Mechanical Electrical Redundancy Trust - members in receipt of termination payments. This ruling applies from 1 July 2025 to 30 June 2029.
- Class Ruling CR 2026/74 Senetas Corporation Limited - return of capital. This ruling applies from 1 July 2025 to 30 June 2027.
- Class Ruling CR 2026/75 African Gold Ltd - scrip for scrip roll-over for shareholders. This ruling applies from 1 July 2025 to 30 June 2026.
- Addendum to Class Ruling CR 2025/88 WorkCover WA - settlement of compensation claim - Workers Compensation and Injury Management Act 2023 (WA). The addendum applies from 1 July 2024 and amends the description of the class of entities to whom it applies.

Other Rulings Issued:

- Product Ruling PR 2026/18 Commonwealth Bank of Australia - CommBank Yello. The ruling applies from 29 September 2026 to customers of the Commonwealth Bank of Australia who are eligible to participate in the CommBank Yello loyalty program. As a result, Product Ruling PR 2025/4 has been withdrawn with effect from 30 September 2026. The withdrawn ruling continues to apply in relation to benefits received under CommBank Yello on or after 4 June 2025 and on or before 30 September 2026.
- Product Ruling PR 2026/19 Swiss Sure Insurance Limited – Unit-Linked Life Insurance Global. The ruling applies from 1 September 2026 to the entities specified in para 4 of the ruling.
- Product Ruling PR 2026/20 St. James's Place Fund Administration Bond and Portfolio Administration Bond. The ruling applies from 1 July 2026 to the entities specified in para 4 of the ruling.

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Latest Australian Tax Cases

Hilton International Australia Pty Ltd v FC of T 2026 ATC; [2026] FCA 1325, 9 September 2026

The Federal Court has upheld the Commissioner of Taxation's application of Part IVA of the Income Tax Assessment Act 1936 (Cth) to cancel a tax benefit obtained by a subsidiary of the Hilton Group in connection with the sale of shares in a related company that owned a five-star hotel in Sydney. The Court found that the sale arrangements constituted a scheme for the purposes of Part IVA and that the taxpayer obtained a tax benefit by excluding $173,300,032 from its assessable income in the relevant income year. The Court also concluded that the dominant purpose of entering into or carrying out the scheme was to obtain a tax benefit in connection with the scheme. Accordingly, the Commissioner did not err in applying Part IVA to cancel the tax benefit.

Sebastian v FC of T 2026 ATC; [2026] ARTA 1981, 9 September 2026

The ART has affirmed an assessment issued by the Commissioner that treated insurance payments received by a taxpayer following a car accident as compensation for his lost earnings, which was assessable as ordinary income.

Richards v Tax Practitioners Board 2026 ATC; [2026] ARTA 1951, 8 September 2026

The Administrative Review Tribunal (ART) has upheld the Tax Practitioners Board's (TPB) decision to terminate a tax agent's registration, finding that his numerous breaches of the Code of Professional Conduct were serious enough to warrant termination.

Traynor & Ors v FC of T 2026 ATC ¶10-830; [2026] ARTA 2024, 15 September 2026

The Administrative Review Tribunal (ART) has upheld amended tax assessments and associated penalties issued to three members of a corporate group. The assessments were based on amounts recorded as loans to the individuals in the financial statements of the group's main trading company being treated as loans subject to Division 7A of the Income Tax Assessment Act 1936.

O'Connor v FC of T 2026 ATC; [2026] ARTA 2141, 21 September 2026.

The Administrative Review Tribunal (ART) has found that the Commissioner of Taxation incorrectly classified an Irish national who held Australian citizenship as a "former temporary resident". This classification resulted in the taxpayer's superannuation withdrawal being taxed as a departing Australia superannuation payment. The ART agreed with the taxpayer that permanently classifying an individual as a former temporary resident solely because they had held a temporary visa at an earlier point in time was inconsistent with the legislative purpose of the departing Australia superannuation payment regime.

QQCS & Ors v FC of T 2026 ATC; [2026] ARTA 2159, 24 September 2026.

The Administrative Review Tribunal (ART) has affirmed the imposition of administrative penalties on five applicants who controlled a self-managed superannuation fund (SMSF). The penalties arose because the fund made false statements in its annual returns for four consecutive years, which the ART found amounted to an intentional disregard of a taxation law.

Sunna v FC of T 2026 ATC; [2026] FCAFC 133, 1 October 2026.

The Full Federal Court has dismissed both the taxpayer's appeal and the Commissioner's cross-appeal against a decision allowing the Commissioner to amend a 2019 assessment to impose a retrospective capital gains tax (CGT) liability.
The Court confirmed that the Commissioner was empowered to amend the 2019 assessment, despite a 2020 assessment having incorrectly included part of the proceeds from the same CGT event. The taxpayer's arguments were found to lack support in legislation and case law and relied on a factual assumption inconsistent with the agreed facts.

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