





















The Court rejected the Commissioner's contention that the reference to "a freehold interest" in section 75-10 encompasses the plural as well as the singular. Having regard to the structure and language of Division 75 and the language of section 75-10 with its focus on "the interest, unit or lease in question", the Court did not consider that the singular "interest" in section 75-10 includes a reference to the plural and agreed with the primary judge's conclusion that the reference to "the interest" in each of the items in the table is a reference to the particular freehold interest referred to in section 75-5(1)(a). The Court also noted that the interpretation adopted by the primary judge avoids uncertainty, regardless of whether a particular freehold interest is sold separately or in conjunction with other interests.

### No input tax credits under retail credit arrangement

In [SVYR v FC of T \[2022\] AATA 3994](#), the AAT has found that a retailer of mobile telephone and tablet accessories was not entitled to input tax credits or decreasing adjustments arising from a credit arrangement provided by the telecommunications supplier (Telco) to the retailer's customers. The applicant accepts it is liable for GST on the price of the accessories sold to its customers even though it receives less than that amount due to the credit (shortfall).

The Tribunal was not satisfied that there was a taxable supply made by Telco for which the shortfall is consideration and the taxpayer has not established that it is entitled to input tax credits in respect of the shortfall amounts.

The Tribunal favoured the view that the shortfall is consideration for a financial supply of credit, ie commercial reality suggests the shortfall is simply the price the taxpayer pays for Telco extending credit to the customer. The taxpayer has not discharged the burden of proving the shortfall is not consideration for a financial supply.

The arrangements for the Telco's provision of credit to the customer did not involve any event that changes the consideration for the taxpayer's supply of accessories to the customer. The consideration is the price as agreed with the customer and the customer agrees to pay the full amount of the price by instalments to Telco.

### Draft GST determinations on the waiver of requirement to provide tax invoice

The Australian Taxation Office (ATO) issued a range of draft GST legislative determinations (LI 2022/D16 to LI 2022/D25) in relation to the waiver of the requirement to provide tax invoices for certain supplies. Comments were due to be made by 16 December 2022. Once finalised, these instruments will have effect on the day after this instrument is registered.

### ATO compliance approach for GST and tertiary residential colleges

The ATO has issued Practical Compliance Guideline [PCG 2022/3](#) which sets out the Commissioner of Taxation's compliance approach for universities and residential colleges supplying accommodation, meals, tertiary residential college courses and religious services to resident students and claiming input tax credits. The guideline is intended to assist residential colleges in determining if supplies of accommodation, meals, tertiary residential college courses and religious services can be treated as GST-free supplies.

PCG 2022/3 applies to GST periods starting on and from 1 January 2023.



# Personal Tax Update

## Deductions allowed for fees paid in settlement court proceedings

In the case of [XPTC and Commissioner of Taxation \(Taxation\) \[2022\] AATA 4147](#), the Administrative Appeals Tribunal (AAT) found that the taxpayer was allowed a deduction for \$200,000 paid in settlement of court proceedings on the basis it was incurred in gaining or producing assessable income. The Tribunal however denied the deduction that was claimed for the legal costs associated with the litigation as it was found to be for multiple purposes.

The taxpayer was a director, shareholder and key employee and provided consultancy services to another entity that was in the business of providing consultancy services. The circumstances which gave rise to the settlement payment arose out of activities undertaken by the taxpayer, as an employee of the consulting entity, which involved him negotiating leasing finance deals for a client of the consulting entity. In performing that work the taxpayer gained or produced assessable income, being the director's fees paid to him by the consulting entity. The client sought to recover losses it said it had suffered as a result of the 'unauthorised transactions' from the taxpayer. The parties entered into a Settlement Deed where the taxpayer paid the client as consideration for the client not proceeding with its various claims.

The Tribunal found that the essential character in a practical business sense of the settlement payment was that it was a payment that arose from the taxpayer's performance of his work with the consulting entity which was in the course of his gaining or producing assessable income by way of the remuneration paid to him. Furthermore, it found that the settlement payment did not have the feature of being capital in nature as it was not made to produce some longer-term enduring benefit and it did not involve the acquisition of any tangible asset, but rather arose out of the very activities the taxpayer performed in gaining assessable income.

In relation to the legal fees, the Tribunal was not satisfied on an evidentiary basis what expenses were incurred as a result of the taxpayer's defence of the proceedings concerning the unauthorised transactions and other matters relating to the consulting entity and its liquidation, and to the taxpayer's threatened action in defamation. The latter matters were not things that can be characterised as activities that involved gaining or producing assessable income.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

### Martina Crowley

Melbourne  
Partner  
+61 (3) 8603 1450  
[martina.crowley@pwc.com](mailto:martina.crowley@pwc.com)

### Glen Frost

Sydney  
Partner  
+61 (2) 8266 2266  
[glen.frost@pwc.com](mailto:glen.frost@pwc.com)

### Amy Etherton

Newcastle  
Partner  
+61 (2) 4925 1175  
[amy.etherton@pwc.com](mailto:amy.etherton@pwc.com)

### Samantha Vidler

Brisbane  
Partner  
+61 (7) 3257 8813  
[samantha.vidler@pwc.com](mailto:samantha.vidler@pwc.com)

### Matt Gurner

Perth  
Partner  
+61 (8) 9238 3458  
[matthew.gurner@pwc.com](mailto:matthew.gurner@pwc.com)

### Alistair Hutson

Adelaide  
Partner  
+61 (8) 8218 7467  
[alistair.hutson@pwc.com](mailto:alistair.hutson@pwc.com)

# State Taxes Update

## NSW Shared Equity Home Buyer Helper program

The [Duties Amendment \(Excluded Transactions\) Regulation 2022 \(NSW\)](#) has been made to ensure that there is no duty imposed under the New South Wales (NSW) Government's [Shared Equity Home Buyer Helper program](#) where the NSW Government will contribute a proportion of the purchase price of a residential property in exchange for an equivalent interest in the property. Specifically, the Regulations prescribe that a transaction that results in an increase in a person's interest in dutiable property under an agreement entered into between the person and the Government under a shared equity scheme is an excluded transaction for the purposes of the *Duties Act 1997* (NSW). The Shared Equity Home Buyer Helper commenced on 23 January 2023.

## NSW duties and updated ruling on declarations of trust

Revenue NSW has updated its ruling on declarations of trust in agreements for sale – [DUT 031v2](#). The ruling has been updated to reflect new section 8AA of the *Duties Act 1997* (NSW) that was introduced to impose duty on an acknowledgement of trust on the making of a statement that purports to be a declaration of trust over dutiable property, but merely has the effect of acknowledging that identified property vested, or to be vested, in the person making the statement is already held, or to be held, in trust for a person or purpose mentioned in the statement.

DUT 031v2 is effective from 19 May 2022.

## QLD updated rulings dealing with additional foreign acquirer duty

The Queensland (QLD) Treasury has released the following updated rulings to deal with the additional foreign acquirer duty (AFAD) and the relevant exemption applicable to eligible retirement visa holders:

- Public Ruling [DA232.1.2](#) AFAD residential land
- Public Ruling [DA232.2.2](#) Inclusion of chattels in AFAD residential land
- Public Ruling [DA000.14.3](#) Foreign corporations and foreign trusts – interests of foreign persons and related persons
- Public Ruling [DA000.15.3](#) Additional foreign acquirer duty – ex gratia relief for significant development.

The QLD AFAD applies to direct or indirect transactions in land that are liable to QLD transfer duty, landholder duty and corporate trustee duty where the land is 'AFAD residential land' and the acquirer under the transaction is a foreign person. The exemption applies for specified foreign retirees in certain circumstances.

The rulings take effect from 1 January 2023.

## NSW land tax rulings for low cost accommodation exemptions

Revenue NSW has issued the following rulings outlining the guidelines for certain NSW land tax exemptions for the 2023 land tax year:

- [LT 113](#) which sets out the approved guidelines and explains the conditions that entitle an owner to claim the exemption or reduction in taxable land value for land that is primarily used to provide boarding house accommodation.
- [LT 114](#) which outlines the approved guidelines and explains the conditions that entitle an owner to claim the exemption or reduction in taxable land value for land that is situated within a five kilometre radius of 1 Martin Place, Sydney and is used to provide certain low-cost rental accommodation.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

**Rachael Cullen**  
Sydney  
Partner  
+61 409 470 495  
[rachael.cullen@pwc.com](mailto:rachael.cullen@pwc.com)

**Barry Diamond**  
Melbourne  
Partner  
+61 (3) 8603 1118  
[barry.diamond@pwc.com](mailto:barry.diamond@pwc.com)

**Stefan DeBellis**  
Brisbane  
Partner  
+61 (7) 3257 8781  
[stefan.debellis@pwc.com](mailto:stefan.debellis@pwc.com)

**Cherie Mulyono**  
Sydney  
Partner  
+61 (2) 8266 1055  
[cherie.mulyono@pwc.com](mailto:cherie.mulyono@pwc.com)

**Matthew Sealey**  
Partner  
+ 61 400 684 803  
[matthew.sealey@pwc.com](mailto:matthew.sealey@pwc.com)

**Jess Fantin**  
Brisbane  
Partner  
+61 (7) 3257 5501  
[jess.fantin@pwc.com](mailto:jess.fantin@pwc.com)

**Rachael Munro**  
Perth  
Partner  
+61 (8) 9238 3001  
[rachael.munro@pwc.com](mailto:rachael.munro@pwc.com)

## Victorian land tax rulings and primary production

The State Revenue Office of Victoria has issued the following rulings dealing with the Victorian land tax primary production exemption:

- [LTA-010](#) – Exemption for primary production land, which provides the Commissioner of State Revenue's interpretation of key terms and elements relating to the primary production exemption in the context of sections 64, 65 and 66 of the *Land Tax Act 2005* (Vic).
- [LTA-011](#) – Primary production exemption for land in urban zone, which sets out the requirements for the primary production land exemption under section 67 of the *Land Tax Act 2005* (Vic).

The rulings apply from the 2023 land tax year.



# Superannuation Update

## Consultation on non-arm's length expense rules for superannuation funds

The government has released a [consultation paper](#) considering options to amend the non-arm's length income (NALI) provisions which apply to superannuation funds. Treasury has developed potential policy changes to the NALI provisions, where they relate to general expenses which have a sufficient nexus to all ordinary and statutory income derived by the fund. These potential changes are intended to ensure the rules continue to operate in line with their original policy intent and provide certainty ahead of the expiry of the transitional compliance approach ([PCG 2020/5](#)) on 30 June 2023.

The potential amendments outlined in the paper are as follows:

- Self-managed superannuation funds (SMSFs) and small APRA-regulated funds would be subject to a factor-based approach which would set an upper limit on the amount of fund income taxable as NALI due to a general expenses breach.
- Large APRA-regulated funds would be exempted from the NALI provisions for general expenses.

Comments can be made by 23 February 2023.

## Consultation on access to superannuation for victims of child sex abuse

Treasury has released for consultation a [discussion paper](#) which outlines two draft proposals which allow victims and survivors of child sexual abuse to access the superannuation of their offender relating to unpaid compensation orders for both criminal and civil proceedings.

Currently, victims and survivors of crime cannot access compensation from the offender's superannuation assets due to the application of the rules in the *Superannuation Industry (Supervision) Regulations 1994* (Cth).

The first proposal aims to prevent convicted abusers from using superannuation to shield assets by enabling court-ordered early release of super to be facilitated by the Australian Taxation Office (ATO).

The second proposal seeks to provide transparency and reduce the costs and complexity of pursuing compensation by providing visibility of superannuation account balances by allowing the victim to submit a superannuation information request to the appropriate court which could then request that the ATO disclose specific information regarding the offender's or their spouse's superannuation accounts.

Submissions to this consultation close on 16 February 2023.

## ATO concern over SMSF schemes involving asset protection

The Australian Taxation Office (ATO) has indicated that it has [concerns](#) about asset protection arrangements that claim to protect SMSF assets from creditors by mortgaging them to an asset protection trust, commonly referred to as a 'Vestey Trust'. Such arrangements may contravene one or more superannuation laws and if so, penalties will apply.

## Superannuation changes?

We understand that the Government plans to progress a review of the objective of superannuation with consultation to start shortly with a view to passing legislation in the first half of the year. Once legislated, future changes to superannuation policy (such as changing thresholds for contributions and balances and changing the first home saver scheme) will need to be consistent with its official objective. Note that the previous Government had attempted to legislate an objective of superannuation.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

**Naree Brooks**  
Melbourne  
Partner  
+ 61 (3) 8603 1200  
[naree.brooks@pwc.com](mailto:naree.brooks@pwc.com)

**Marco Feltrin**  
Melbourne  
Partner  
+ 61 (3) 8603 6796  
[marco.feltrin@pwc.com](mailto:marco.feltrin@pwc.com)

**Abhi Aggarwal**  
Brisbane  
Partner  
+ 61 (7) 3257 5193  
[abhi.aggarwal@pwc.com](mailto:abhi.aggarwal@pwc.com)

**Alice Kase**  
Sydney  
Partner  
+ 61 (2) 8266 5506  
[alice.kase@pwc.com](mailto:alice.kase@pwc.com)

**Ken Woo**  
Sydney  
Partner  
+ 61 (2) 8266 2948  
[ken.woo@pwc.com](mailto:ken.woo@pwc.com)

**Allister Sime**  
Melbourne  
Director  
+61 3 8603 1195  
[allister.sime@pwc.com](mailto:allister.sime@pwc.com)

**Sharyn Frawley**  
Melbourne  
Partner  
+61 3 8603 1217  
[sharyn.frawley@pwc.com](mailto:sharyn.frawley@pwc.com)



# Legislative Update

Since our last update, the following tax and superannuation related Bills were introduced into Federal Parliament:

- [Safeguard Mechanism \(Crediting\) Amendment Bill 2022](#), which was introduced into the House of Representatives on 30 November 2022, is part of the whole of economy plan to reduce emissions in line with Australia's climate targets, and among other things, establishes the framework for creating Safeguard Mechanism Credits (SMCs), covering how credits are issued, purchased, and included in Australia's National Registry of Emissions Units and to ensure SMCs are subject to the existing tax rules covering registered emissions units.
- [Inspector-General of Intelligence and Security and Other Legislation Amendment \(Modernisation\) Bill 2022](#), which was introduced into the House of Representatives on 30 November 2022, contains amendments to ensure that legislation enabling the Inspector-General of Intelligence and Security (IGIS) will support information sharing, and also to deal with protected taxation information.

The following measures have been registered since our last update:

- [Customs \(India-Australia Economic Cooperation and Trade Agreement Implementation\) Notice 2022](#) which declares that the India-Australia Economic Cooperation and Trade Agreement entered into force on 29 December 2022.
- [Income Tax Assessment \(1936 Act\) Amendment \(Period of Review\) Regulations 2022](#) exclude certain small or medium business entities (ie businesses with an aggregated turnover of up to AUD 50 million) from being subject to the shortened two-year period of review for income tax assessments, ie the four-year amendment period will still apply to these taxpayers. Specifically, the four-year amendment period has been extended so that it will apply to assessments that are made after

9 December 2022 and relate to income years that commence on or after 1 July 2021 of a small or medium business entity that, in broad terms:

- has a transaction that involves associates in a non-arm's length dealing that has the effect of recording at least AUD 200,000 in either assessable income, allowable deductions or from the total capital proceeds from one or more capital gains tax (CGT) events
- together with its affiliates or connected entities, derives more than AUD 200,000 of its assessable income from non-Australian sources
- is a foreign controlled Australian entity or a non-resident entity
- engages in schemes captured by either the Diverted Profits Tax (DPT) or Multinational Anti-Avoidance Law (MAAL)
- has at least ten other entities that are connected with or are affiliated with the entity
- has claimed the research and development (R&D) tax offset or certain related deductions, recoupments and adjustments
- has claimed CGT restructure rollover relief under Division 615, demerger relief or is a party to a Subdivision 126-B rollover relating to CGT asset transfers between wholly-owned companies, or
- is a foreign resident applying the Division 855 CGT exemption.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

### Chris Morris

Sydney  
Australian Tax Leader  
+61 (2) 8266 3040  
[chris.morris@pwc.com](mailto:chris.morris@pwc.com)

### Michael Bona

Brisbane  
Global Tax Leader  
+61 (7) 3257 5015  
[michael.bona@pwc.com](mailto:michael.bona@pwc.com)

### Warren Dick

Sydney  
Tax Reporting & Strategy  
Leader  
+61 (2) 8266 2935  
[warren.dick@pwc.com](mailto:warren.dick@pwc.com)

### Trinh Hua

Sydney  
Tax Market Leader  
+61 (2) 8266 3045  
[trinh.hua@pwc.com](mailto:trinh.hua@pwc.com)

### James O'Reilly

Brisbane  
Tax Leader  
+61 (7) 3257 8057  
[james.oreilly@pwc.com](mailto:james.oreilly@pwc.com)

### Jason Karametos

Melbourne  
Industries Tax Leader  
+61 (3) 8603 6233  
[jason.karametos@pwc.com](mailto:jason.karametos@pwc.com)

### Kirsten Arblaster

Melbourne  
Tax Leader  
+61 (3) 8603 6120  
[kirsten.arblaster@pwc.com](mailto:kirsten.arblaster@pwc.com)

### Rob Bentley

Perth  
Tax Leader  
+61 (8) 9238 5202  
[robert.k.bentley@pwc.com](mailto:robert.k.bentley@pwc.com)

### Alistair Hutson

Adelaide  
Partner  
+61 (8) 8218 7467  
[alistair.hutson@pwc.com](mailto:alistair.hutson@pwc.com)

### Sarah Hickey

Sydney  
Financial Services Tax  
Leader  
+61 (2) 8266  
[sarah.a.hickey@pwc.com](mailto:sarah.a.hickey@pwc.com)

### Amy Etherton

Newcastle  
Partner  
+61 (2) 4925 1175  
[amy.etherton@pwc.com](mailto:amy.etherton@pwc.com)

### Sophia Varelas

Melbourne  
National Leader, R&D and  
Government Incentives  
+61 417 208 230  
[sophia.varelas@pwc.com](mailto:sophia.varelas@pwc.com)

- [Taxation Administration: Classes of Electronic Payment System Transactions Exempt from Being Reported in Third Party Reports Determination 2022](#) exempts, from 1 July 2022, all administrators of a payment system (not just authorised deposit-taking institutions) from third party reporting obligations in respect of specified classes of transactions involving an electronic payment where the transaction was initiated by another entity that is required to report those transactions to the Commissioner of Taxation, made to or processed by certain specified entities, or made as a loan repayment, chattel mortgage repayment, hire purchase payment or finance lease payment.
- [Taxation Administration – Single Touch Payroll – Amounts to be Notified Amendment \(Australian Apprenticeships Incentives\) Determination 2022](#), applicable from 1 July 2022, provides the Commissioner of Taxation with the power to require Single Touch Payroll (STP) to be used for the reporting of support payments made to an “Australian Apprentice” by the Department of Employment and Workplace Relations.
- [Income Tax Assessment \(Developing Country Relief Funds\) Amendment \(Update No 1\) Declaration 2022](#) declares the following as developing country relief funds for which an income tax deduction is allowed for gifts of AUD 2 or more: A Liquid Future Ltd Gift Fund, The ICDP Foundation Fund, and Mphatso Children’s Foundation Gift Fund.
- [Treasury Laws Amendment \(Miscellaneous and Technical Amendments\) Regulations 2022](#) which makes minor and technical corrections to taxation and superannuation laws, among others.

Federal Parliament resumes sittings for the 2023 calendar year on 6 February 2023.





# Other News

## ATO finalises guidance on trust reimbursement agreements

The Australian Taxation Office (ATO) has finalised Taxation Ruling [TR 2022/4](#) which deals with trust “reimbursement agreements” (section 100A of the *Income Tax Assessment Act 1936 (Cth) (ITAA 1936)*) and also finalised its risk assessment framework and compliance approach to such arrangements in Practical Compliance Guideline [PCG 2022/2](#).

Section 100A of the *ITAA 1936* is an integrity provision which is designed to stop arrangements made to one beneficiary (typically with a low tax rate) of the trust but the economic benefit is effectively transferred to a second beneficiary (who is typically subject to a higher tax rate).

With a continued focus on high wealth private groups by the ATO, it is expected that potential historical exposure to section 100A will be on the ATO's agenda. Given there is no time limit for the Commissioner of Taxation to amend assessments to affect an adjustment under section 100A, it is recommended that all private groups which operate with a discretionary trust review their past transactions and arrangements in line with the framework set out in PCG 2022/2, if they have not already done so.

For more information, refer to our [Insight](#).

## ATO guidance on tax governance for Top 500 private groups

The ATO has released [guidance](#) on effective tax governance criteria for Top 500 privately owned wealthy groups. This guidance is intended to assist Top 500 groups with implementing effective tax governance frameworks, processes and procedures and to support private groups in achieving a high assurance rating, which is a critical element in the group's ability to achieve justified trust. The guidance includes:

- tax governance frameworks, processes and procedures that the ATO believe are necessary when a Top 500 group is implementing an effective tax governance framework (ie ‘required items’)
- a menu of ten additional tax governance items for a Top 500 group's consideration (ie ‘additional items’), three of which the group will also need to implement to achieve a high assurance rating for tax governance, and
- practical, downloadable examples.

## ATO administrative solution to AUD LIBOR for foreign banks

The ATO has released details of a new [administrative solution](#) which will apply from 1 January 2023 until a legislative solution is put in place, when applying section 160ZZZA of the *ITAA 1936* for Australian dollar (AUD) notional intra-bank loans.

By way of background, section 160ZZA enables an Australian branch of a foreign bank or foreign financial entity to claim a deduction on the notional interest payment arising from an intra-bank loan. The amount of the deduction is limited to the interest amount calculated by reference to the London Interbank Offered Rate (LIBOR). Since AUD LIBOR is no longer quoted as of 31 May 2013, a proxy rate is to be used and accepted by the ATO in good faith in accordance with the agreed administrative solution.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

**Chris Morris**  
Sydney  
Australian Tax Leader  
+61 (2) 8266 3040  
[chris.morris@pwc.com](mailto:chris.morris@pwc.com)

**Michael Bona**  
Brisbane  
Global Tax Leader  
+61 (7) 3257 5015  
[michael.bona@pwc.com](mailto:michael.bona@pwc.com)

**Warren Dick**  
Sydney  
Tax Reporting & Strategy Leader  
+61 (2) 8266 2935  
[warren.dick@pwc.com](mailto:warren.dick@pwc.com)

**Trinh Hua**  
Sydney  
Tax Market Leader  
+61 (2) 8266 3045  
[trinh.hua@pwc.com](mailto:trinh.hua@pwc.com)

**James O'Reilly**  
Brisbane  
Tax Leader  
+61 (7) 3257 8057  
[james.oreilly@pwc.com](mailto:james.oreilly@pwc.com)

**Jason Karametos**  
Melbourne  
Industries Tax Leader  
+61 (3) 8603 6233  
[jason.karametos@pwc.com](mailto:jason.karametos@pwc.com)

**Kirsten Arblaster**  
Melbourne  
Tax Leader  
+61 (3) 8603 6120  
[kirsten.arblaster@pwc.com](mailto:kirsten.arblaster@pwc.com)

**Rob Bentley**  
Perth  
Tax Leader  
+61 (8) 9238 5202  
[robert.k.bentley@pwc.com](mailto:robert.k.bentley@pwc.com)

**Alistair Hutson**  
Adelaide  
Partner  
+61 (8) 8218 7467  
[alistair.hutson@pwc.com](mailto:alistair.hutson@pwc.com)

**Sarah Hickey**  
Sydney  
Financial Services Tax Leader  
+61 (2) 8266  
[sarah.a.hickey@pwc.com](mailto:sarah.a.hickey@pwc.com)

**Amy Etherton**  
Newcastle  
Partner  
+61 (2) 4925 1175  
[amy.etherton@pwc.com](mailto:amy.etherton@pwc.com)

**Sophia Varelas**  
Melbourne  
National Leader, R&D and Government Incentives  
+61 417 208 230  
[sophia.varelas@pwc.com](mailto:sophia.varelas@pwc.com)

## Review of Payment Times Reporting regime

The Government has [announced](#) an independent review of the *Payment Times Reporting Act 2020* (Cth) and released the [terms of reference](#) for the review. The review must consider the:

- efficacy of the Act in meeting its objectives (to enable small businesses to make informed decisions about potential customers and create an incentive for reporting entities to improve their payment times).
- impact of related government policies (for example, eInvoicing) on the payment terms and practices of reporting entities.
- effectiveness of other policy measures (including mandatory payment times) to improve payment terms and practices for small businesses.

The review will include a public consultation process that will provide all interested parties with opportunities to contribute to the review, with a written report due to be provided to the Government by 30 June 2023.

## Payment summaries and passbook holders

The ATO has issued a draft legislative instrument ([Taxation Administration \(Exemption from Providing Payment Summaries to Passbook Account Holders\) Legislative Instrument 2023](#)) which proposes to exempt passbook account providers from the requirement to provide a payment summary to a holder of a passbook savings account for certain payments that are made to that account and subject invoicing to withholding on interest.

## New reporting requirements for operators of electronic distribution platforms

The ATO has issued a draft legislative instrument ([Taxation Administration \(Reporting by Electronic Distribution Platform Operators\) Legislative Instrument 2022](#)) which, once finalised, will apply to operators of electronic distribution platforms that are subject to the new third party reporting regime (recently enacted by [Treasury Laws Amendment \(2022 Measures No. 2\) Act 2022](#)). For further information about the new reporting regime, refer to our previous [Tax Alert](#).

Under the proposed legislative instrument, affected entities will be required to report information about certain transactions made through their platforms to the ATO on an alternative six-monthly reporting period which will apply from 1 January to 30 June and from 1 July to 31 December, in place of the default annual reporting.

The new regime and the legislative instrument once effective, will apply to transactions entered into on or after:

- 1 July 2023, for transactions that relate to a supply of taxi travel
- 1 July 2023, for transactions that relate to a supply of short-term accommodation, and
- 1 July 2024, for all other transactions (such as asset sharing, food delivery, tasking-based services).

This instrument does not change the lodgment deadlines for the report, ie the report must be given to the Commissioner of Taxation on or before the 31st day after the end of each reporting period.

Comments are due to be made on the proposed instrument by 3 February 2023.

## Draft law on Future Fund subsidiaries

Treasury has released [exposure draft law](#) which will operate to exempt wholly-owned Australian incorporated subsidiaries of the Future Fund Board of Guardians (Future Fund Board) from corporate income tax. This measure was originally announced in the 2022-23 March Budget. Comments were due to be made by 22 December 2022.

## Draft law on DGR Register reform

Treasury has released [exposure draft law](#) which proposes to transfer the administration of four deductible gift recipient (DGR) categories from portfolio agencies to the ATO. This would enable the ATO to be responsible for all 52 DGR categories (currently responsible for 48). Comments are invited up to 19 February 2023.

## AAT to be abolished

The Government has [announced](#) that it will abolish the Administrative Appeals Tribunal and replace it with an administrative review body. A central feature of the new body will be a transparent and merit-based selection process for the appointment of non-judicial members. All cases currently before the AAT will continue and are expected to be decided or finalised before the new federal administrative review body is established. Any remaining cases will transition to the new review body.

## Editorial

PwC's Monthly Tax Update is produced by the PwC's Financial Advisory Marketing and Communications team, with technical oversight provided by PwC's Tax Markets & Knowledge team.

### Jannette Krezel

Senior Manager, Tax Markets  
jannette.krezel@pwc.com

### Lynda Brumm

Principal, Tax Markets & Knowledge  
+61 (7) 3257 5471  
lynda.brumm@pwc.com

### Natalie Stewart

Senior Manager, Tax Markets & Knowledge  
+61 (3) 8603 2336  
natalie.a.stewart@pwc.com

### Jason Dutt

Senior Associate, Employment Taxes  
jason.dutt@pwc.com



[pwc.com.au](http://pwc.com.au)

© 2023 PricewaterhouseCoopers. All rights reserved. PwC refers to the Australia member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details. This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors. Liability limited by a scheme approved under Professional Standards Legislation. At PwC Australia our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 250,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at [www.pwc.com.au](http://www.pwc.com.au).

D0448170