



# PwC's Monthly Tax Update

Keeping you up to date on the latest Australian  
and international tax developments

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# Corporate Tax Update

## Production tax incentives announced in 2024–25 Federal Budget

The 2024–25 Federal Budget announced the following tax incentives as part of its *Future Made in Australia* package.

- The Critical Minerals Production Tax Incentive which will provide a production incentive valued at ten per cent of relevant processing and refining costs for Australia's 31 critical minerals. It will be applicable for up to ten years per project, for production between 2027–28 and 2039–40, for projects that reach final investment decisions by 2030.
- The Hydrogen Production Tax Incentive which will provide a \$2 incentive per kilogram of renewable hydrogen produced for up to ten years per project, between 2027–28 and 2039–40, for projects that reach final investment decisions by 2030.

Further details of both incentives will be determined through consultation.

For further discussion of Federal Budget measures, refer to our [in-depth analysis](#).

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# Employment Taxes Update

## Payroll tax relief for GPs in Victoria and South Australia

On 22 May 2024, the Victorian State Government [announced](#) all Victorian general practice (GP) businesses will receive an exemption from any outstanding or future payroll tax liabilities on payments to contractor GPs for the period up to 30 June 2024.

A further 12-month exemption from payroll tax for payments made to GPs engaged as contractors will be available up to 30 June 2025 for any general practice businesses that have not already received advice and begun paying payroll tax on payments to their contractor GPs.

Additionally, an exemption from Victorian payroll tax will apply to payments made to both GPs engaged as employees and contractors for providing bulk-billed consultations from 1 July 2025.

On the same day, the South Australian State Government [announced](#) it will exempt the wages earned by GPs for bulk-billed services provided to patients. The exemption will apply from 1 July 2024 to all GP practices liable for payroll tax and will be provided for both GPs engaged as employees and those engaged as contractors.

## Employee for SG purposes – ATO's Decision Impact Statements on recent cases

On 15 May 2024, the ATO released the following Decision Impact Statements on earlier decisions of the Full Federal Court, each of which dealt with the application of the *Superannuation Guarantee (Administration) Act 1992* (SGAA) and whether the persons in question were employees for purposes of applying the superannuation guarantee (SG):

- [Jamsek & Ors v ZG Operations Australia Pty Ltd & Ors \(No 3\) \[2023\] FCAFC 48](#), and
- [JMC Pty Ltd v FC of T \[2023\] FCAFC 76](#).

The Commissioner is also considering whether any changes are required to SGR 2005/1, SGR 2005/2, SGR 2009/1, ATO ID 2014/28 and other relevant guidance products. The Decision Impact Statements are open for comments until 14 June 2024 and summaries of each are below.

### Jamsek

The Decision Impact Statement for the *Jamsek* case highlighted the following considerations to be made when assessing the 'wholly or principally for labour test' as set out in section 12(3) of the SGAA:

- Only a natural person who enters into a contract in that capacity can be deemed an employee for the purposes of section 12(3).
- Applying section 12(3) necessitates an analysis of the content of a bilateral exchange of promises, irrespective of the number of parties on each side of the contract.
- The superannuation regime cannot be bypassed by simply forming a contract that names more than two parties.
- Assessing whether a contract is for labour involves evaluating the terms of the relevant contract or contracts. In making this assessment, various considerations apply (including whether the contract is one for a result (including the basis on which remuneration is calculated), whether a substantial capital asset is required to carry out the services, and whether the contract permits the individual to delegate.
- The Commissioner has also noted that there may be some scenarios where a qualitative analysis of the components of a supply of services may also be relevant in determining whether a contract is principally for labour under subsection 12(3).

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## JMC

The ATO has outlined in the Decision Impact Statement in relation to the *JMC* case that if a contract allows a worker to delegate, subcontract, or assign their work to someone else, the contract is not considered primarily for the worker's labour. Consequently, the worker will not be classified as an 'employee' under subsection 12(3).

The Decision Impact Statement highlights this position will generally prevail, unless the right to delegate is deemed a sham, has been altered by the parties, or is unenforceable. Additionally, the Commissioner makes comment that consideration is to be given where the delegation "right is likely to be exercised in the future or is a hollow or empty right would be relevant to an argument about sham".

Further, where the contractual terms of the arrangement are unclear, the ATO will form its position based on the available evidence on the contractual arrangement.

## Draft variation of PAYG withholding for certain US entertainers

On 9 May 2024, the ATO released a draft legislative instrument ([LI 2024/D7](#)) that, once effective, will vary the rate of PAYG withholding to nil for payments made to residents of the United States of America (US) for entertainment and sports activities in Australia where the sum of all payments does not exceed USD10,000 in for the relevant income year. The draft instrument also exempts payers from giving a payment summary for payments to US resident entertainers (including athletes or sports persons) where no amount was withheld from those payments in a financial year.

The draft instrument, once finalised, will replace the equivalent [2014 instrument](#) that is due to sunset on 1 October 2024.

The draft instrument is open for comments until 6 June 2024.

## AAT affirms contractor arrangement subject to super guarantee obligations

The Administrative Appeals Tribunal (AAT) has upheld a decision in [S&H Investments Pty Ltd and Commissioner of Taxation \[2024\] AATA 893](#) to issue superannuation guarantee charge assessments to a taxpayer for failing to make superannuation contributions on behalf of a worker, who was previously an employee of the taxpayer and who had agreed to undertake cleaning duties as a contractor. The worker performed the same tasks as she had previously as an employee, submitted invoices each week for hours worked, and used cleaning equipment provided by the company.

There was no formal contract between the parties, however, email correspondence indicated the worker understood she had changed from being an employee to a contracted clearer. The taxpayer argued the worker was paid at a higher hourly rate that included superannuation and the invoices received had an ABN.

The AAT found that, despite the parties' intentions, the worker was an employee under the extended definition of the term in section 12(3) of the SGAA. The AAT observed that although the parties may have thought the arrangement was one of an independent contractor, the parties cannot contract out of their obligations under the SGAA, nor can entitlements under the SGAA be waived.

## FBT car parking threshold

The ATO has published that the car parking threshold for the FBT year ending 31 March 2025 is \$10.77. All 2025 FBT rates can be found on the [ATO's website](#).



# Global Tax and Trade Update

## International tax measures in 2024–25 Federal Budget

The 2024–25 Federal Budget featured several announcements that impact taxpayers operating internationally. Specifically:

- A new penalty will be introduced from 1 July 2026 for taxpayers which are part of a group with more than \$1 billion in annual global turnover that are found to have mischaracterised or undervalued royalty payments, to which royalty withholding tax would otherwise apply.
- The Government will not proceed with its previous proposal to deny deductions for payments relating to intangibles held in low- or no-tax jurisdictions, with such integrity issues to be addressed through Australia's Pillar Two implementation of a Global and Domestic Minimum Tax.
- The foreign resident capital gains tax (CGT) regime will be amended for CGT events commencing on or after 1 July 2025. The Government intends to consult on implementation details, however the amendments will:
  - clarify and broaden the types of assets to which foreign residents are subject to CGT
  - amend the point-in-time principal asset test to a 365-day testing period, and
  - require foreign residents disposing of shares and other membership interests exceeding \$20 million in value to notify the Australian Taxation Office prior to the transaction being executed.
- Further funding will be provided to strengthen and streamline Australia's foreign investment framework, through more effective monitoring, enforcement of conditions and timely review of foreign investment applications.

For further information on the above announcements, refer to our in-depth Federal Budget [analysis](#).

In addition, the Federal Budget announced that the start date of amendments announced in the 2023–24 Federal Budget to expand the income tax general anti-avoidance rules in Part IVA of the *Income Tax Assessment Act 1936* will be deferred from income years commencing on or after 1 July 2024 to income years commencing on or after the day the amending legislation receives royal assent. These amendments, which will apply regardless of whether the scheme was entered into before or after the commencement date, will expand the application of Part IVA so that it can apply to:

- schemes that reduce tax paid in Australia by accessing a lower withholding tax rate on income paid to foreign residents, and
- schemes that achieve an Australian income tax benefit, even where the dominant purpose was to reduce foreign income tax.

## OECD releases Pillar Two GloBE Consolidated Commentary and Examples

The Organisation for Economic Co-operation and Development (OECD) has published [Consolidated Commentary](#) to the Pillar Two Global Anti-Base Erosion (GloBE) Model Rules that incorporates all agreed Administrative Guidance that has been released by the Inclusive Framework from March 2022 through December 2023. The OECD also released updated [Illustrative Examples](#). Read more in our [Tax Alert](#).

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## Other OECD updates

In other OECD news, the [Taxing Wages 2024](#) report has been released, which provides details of taxes paid on wages in OECD countries. This edition focuses on fiscal incentives for second earners in the OECD and how tax policy might contribute to gender gaps in labour market outcomes. Among other findings, the report [found](#) that effective tax rates on labour incomes rose in a majority of OECD countries, with the post-tax income of single workers earning the average wage declining in 21 out of 38 OECD countries.

## Excise and tariff measures in the 2024–25 Federal Budget

The following measures related to excise and tariffs were included within Federal Budget 2024–25:

- From 1 July 2024, the Government will abolish 457 nuisance tariffs, at a cost of \$41 million over five years from 2023–24.
- Excise administrative measures will be streamlined, including the streamlining of licence applications and renewal requirements, with such measures to commence the later of 1 July 2024 or the day following royal assent of the enabling legislation.
- A broad-based duty exemption on Ukrainian goods has been extended for a further two years, to 3 July 2026. This exemption provides for duty-free treatment of goods that are produced or manufactured in Ukraine. Excise and excise-equivalent duties will still apply to alcohol, fuel, tobacco and petroleum products imported from Ukraine.
- Measures relating to the removal of regulatory barriers applying to bunker fuels for commercial shipping industries will now apply from 1 January 2025, rather than 1 July 2024.

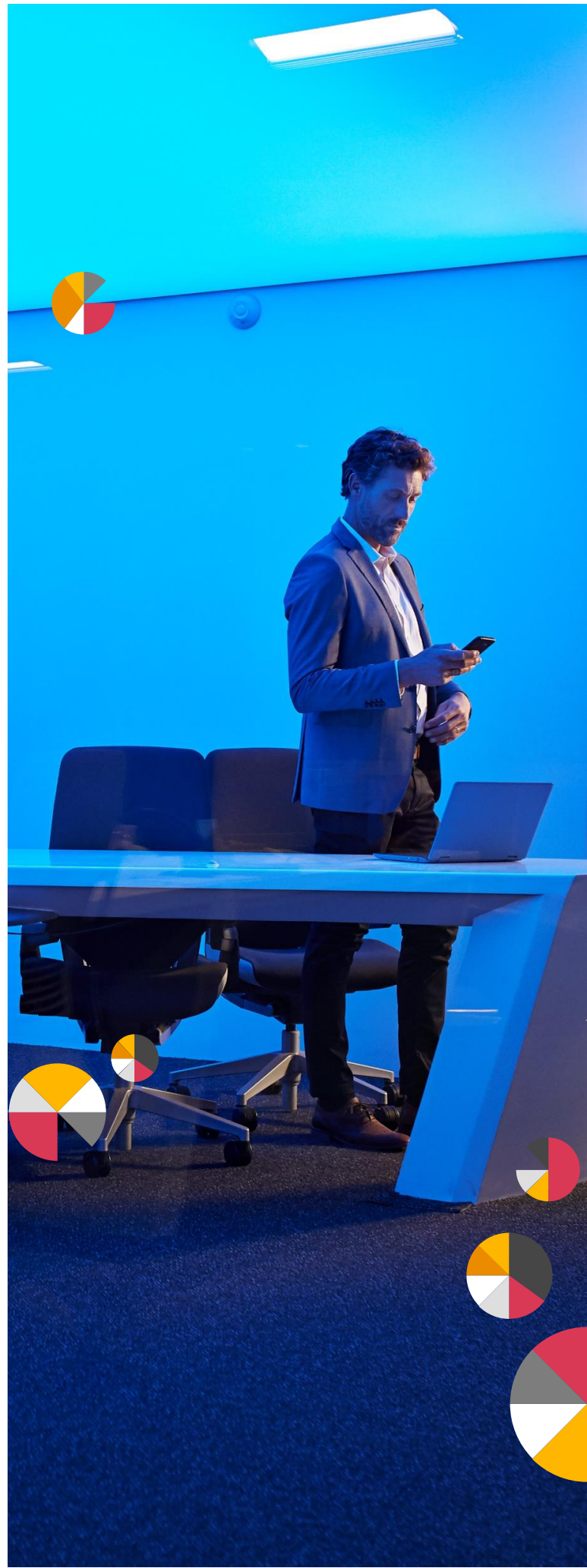
For further information, refer to our [Federal Budget 2024–25 Insights](#).

## Draft legislative instrument for blending exemptions

The ATO has released for comment Draft Legislative Instrument [LI 2024/D4](#), which specifies circumstances in which blends of excisable fuels, with or without other substances, are taken not to be excisable goods. This has the effect that excise duty is payable on the components of these blends (where applicable) but not on the blends themselves.

This new instrument will replace the previous instrument – Excise (Blending Exemptions) Determination 2014 (No. 1) which would otherwise sunset on 1 October 2024.

Once finalised the instrument will commence the day after it is registered. Comments closed 29 May 2024.



# Indirect Tax Update

## Draft instrument to waive tax invoice requirement for certain motor vehicle incentive payments

The Australian Taxation Office (ATO) has issued Draft Legislative Instrument [LI 2024/D6](#), which waives the requirement for a recipient of a supply of a motor vehicle in certain circumstances to hold a tax invoice before the relevant input tax credit will be attributable to a tax period.

Specifically the instrument will apply to waive the requirement for a recipient to hold a tax invoice where the recipient makes a creditable acquisition of a motor vehicle from a motor vehicle dealer and, in addition to the consideration payable by the recipient, the motor vehicle dealer receives or is entitled to receive third-party consideration in the form of a motor vehicle incentive payment. Instead of a tax invoice, the recipient must hold a document that meets certain specified information requirements.

For the purposes of the instrument, 'motor vehicle incentive payment' is limited to incentive payments that are third-party consideration (such as from a motor vehicle manufacturer, distributor or importer), where the incentive payment forms part of the total consideration for the supply of the motor vehicle to the recipient.

Once finalised the instrument will commence on the day after it is registered. Comments on the draft close 6 June 2024.

## Updates to the ATO's approach to reviewing the Top 1,000 taxpayers

The ATO is planning to [revise its Top 1,000 combined assurance review \(CAR\) program](#). The ATO will differentiate between taxpayers who have robust tax risk management and governance frameworks in place and those who do not. This will also have implications in relation to the ATO's approach to the goods and services tax (GST) compliance under a CAR. Read more in our [Alert](#).

## Indirect tax and the 2024–25 Federal Budget

There were few indirect tax-specific measures announced in the 2024–25 Federal Budget. Although the Government did announce that it would extend refunds of indirect tax (including GST, fuel and alcohol taxes) under the Indirect Tax Concession Scheme (ITCS) and strengthen the ATO's ability to combat fraud by extending the time the ATO has to notify a taxpayer if it intends to retain a business activity statement (BAS) refund.

Specifically, in relation to the ITCS the Square Kilometre Array Observatory (SKAO) will have ITCS access upgraded for additional concessions to be claimed for the purchase of vehicles for personal use by SKAO officials or their family. Additional concessions for commercial rent will also be formalised for existing ITCS packages for Bangladesh, Costa Rica, El Salvador and the Taipei Economic and Cultural Office. Construction and renovation concessions will be formalised for the existing ITCS package for the Netherlands. Concessions for both commercial rent and construction and renovation will be formalised for the existing ITCS package for Pacific Trade Invest.

In relation to BAS refunds, the ATO's mandatory notification period for BAS refund retention will be increased from 14 days to 30 days to align with time limits for non-BAS refunds. Legitimate refunds will be largely unaffected and if there is a legitimate refund retained for over 14 days, the ATO must pay interest to the taxpayer (as is currently the case). This measure will have effect from the start of the first financial year after Royal Assent of the enabling legislation which is yet to be introduced.

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# Personal Tax Update

## Personal tax and 2024–25 Federal Budget

The main personal tax announcements in the 2024–25 Federal Budget related to already-legislated measures, namely the revised stage 3 personal income tax cuts, which will apply from 1 July 2024, and the increased Medicare levy low-income thresholds (refer to our [March 2024](#) edition of Monthly Tax Update for further information on both of these measures).

The Federal Budget did, however, confirm that the indexation of the Higher Education Loan Program (HELP), and other student loans, would be limited to the lower of either the Consumer Price Index or the Wage Price Index, effective 1 June 2023 (subject to the passage of legislation).

For further insight into the Budget measures related to personal tax and superannuation, see our [in-depth analysis](#).

## Proposed cents per kilometre deduction rate for 2024–25

The ATO has released Draft Legislative Instrument [LI 2024/D5](#), which sets the proposed rate at which work-related car expense deductions may be claimed in the 2024–25 income year when using the cents per kilometre method.

The Commissioner of Taxation has determined the rate to be 88 cents per kilometre for the income year commencing 1 July 2024 (and subsequent income years, until such time as the instrument is varied or repealed).

## Focus areas for 2024 tax time

The ATO has announced its key [focus areas](#) for tax time 2024. In particular, the ATO announced it will be taking a close look at the following common errors being made by taxpayers:

- incorrectly claiming work-related expenses
- inflating claims for rental properties, and
- failing to include all income when lodging.

## Dental technician's expenses to become dentist not for self-education

In [Ionita and Commissioner of Taxation \(Taxation\) \[2024\] AATA 808](#), the Administrative Appeals Tribunal considered whether an overseas qualified dentist, who was working as a dental technician in Australia, could claim the cost of exams undertaken to be registered to practise as a dentist (as well as associated meals, accommodation and flight expenses) as a self-education expense.

Over four income tax years, the taxpayer claimed self-education expenses on the basis that there was a 'strong nexus' between the expenditure and her assessable income, and that the expenses enabled her to maintain or improve her specific skill or knowledge in relation to her income earning activities, providing a letter from her employer to support this position.

The Tribunal disagreed, stating that it was not clear how sitting examinations to certify suitability for registration as a dentist in Australia improved the taxpayer's skills as a dental technician. A dentist's role is patient-focussed, whereas the role of dental technician does not involve any patient contact, but rather involves working in a laboratory. As the expenses were incurred in order for the taxpayer to become registered as a dentist, and to work as a dentist in the future, they were incurred at a 'point too soon' to be regarded as incurred in gaining or producing the taxpayer's assessable income. The self-education expenses were, therefore, not deductible, with the meals, accommodation and flight expenses similarly not deductible.

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# State Tax Update

## Victorian Budget

The [2024–25 Victorian State Budget](#) was delivered on 7 May 2024. Total revenue in 2024–25 is forecast to be \$96.1 billion, and is expected to grow by an average of 3.6 per cent per year up to 2027–28. Taxation revenue is forecast to be \$39 billion in 2024–25, with annual growth of five per cent per year up to 2027–28.

The Victorian Government positioned the Budget as one that relieves cost of living pressures, with a continued focus on improving the healthcare system, boosting education and prioritising infrastructure spending on certain projects in Victoria.

From a tax perspective, the Budget did not provide any significant new revenue raising initiatives, but did include:

- the previously announced commercial and industrial property tax reform, which phases out stamp duty with a commercial and industrial property tax (see below), and
- a stand-alone land tax exemption for land used to provide social and emergency housing. Additionally, the exemption will apply to charity owned land where social and emergency housing is under development. The exemption will commence in the 2025 land tax year.

For further details, refer to our [Alert](#).

## Western Australia Budget

The [Western Australia \(WA\) State Budget 2024–25](#) was handed down on 9 May 2024. The Budget outlines a seventh consecutive year of operating surplus for WA, with \$2.6 billion forecast for the 2024–25 financial year.

There were limited tax-related measures in this Budget, the primary announcement being the increase to the existing transfer duty concession for first home buyers. This measure was subsequently included in the [Duties Amendment \(First Home Owner Concessions\) Bill 2024 \(WA\)](#), introduced into the Legislative Assembly

on 15 May 2024. Specifically, the Bill proposes to amend the Duties Act 2008 (WA) to increase the first home owner duty concession for homes so that:

- properties valued up to \$450,000 (previously \$430,000) are exempt from transfer duty, and
- properties valued between \$450,001 and \$600,000 (previously \$430,001 to \$530,000) receive a duty concession, with duty assessed at a rate of \$15.01 per \$100 or part of \$100 above \$450,000.

The changes will apply to purchases of established, newly constructed or substantially renovated homes made on or after 9 May 2024 by eligible first home buyers.

For further details, refer to our [Alert](#).

## Northern Territory Budget

The [2024–25 Northern Territory Budget](#) was delivered on 14 May 2024. The fiscal balance is expected to remain in deficit over the budget cycle, with a return to surplus now anticipated in 2029–30. The budget also projects a general government net operating balance deficit of \$410 million in 2024–25, and surpluses every year over the forward estimates.

Taxation revenue for 2023–24 is expected to rise steadily over the budget and forward estimates period, underpinned by stable growth across most tax categories in line with broader economic activity.

The main tax-related measure discussed in the Budget was the new [Mineral Royalties Bill 2024](#) (now passed by Parliament) which establishes a new regime for the imposition and collection of royalties on minerals extracted from the Territory on and after 1 July 2024. In summary, the new law will, among other measures, provide an ad valorem scheme for the imposition of royalties under four categories of rates – 7.5%, 5%, 3.5% and 2.5% – assigned to a mineral depending on cost intensity/complexity/value add through processing in the Territory.

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## Victoria: State Taxation Amendment Bill introduced

The [State Taxation Amendment Bill 2024 \(Vic\)](#) has been introduced into the Parliament of Victoria. Among other changes, the Bill amends the Duties Act 2000 (Vic) in relation to duty chargeable on premiums paid in relation to contracts of business insurance. It also amends the Land Tax Act 2005 (Vic) in relation to:

- the assessment of joint owners of land and certain trusts for land tax
- a new exemption from land tax for social housing and emergency housing from 1 January 2025, and
- exemptions from vacant residential land tax for land used as a holiday home.

## Victoria: Commercial and Industrial Property Tax

The Victorian Commercial and Industrial Property Tax (CIPT) will come into effect from 1 July 2024 following the enactment of the [Commercial and Industrial Property Tax Reform Act 2024 \(Vic\)](#) which received Royal Assent on 21 May 2024.

The Act abolishes the upfront cost of stamp duty to land with a qualifying commercial or industrial use, and replaces it with the CIPT.

For further information, refer to the [April 2024](#) edition of Monthly Tax Update.

## WA: Build-to-rent land tax exemption passed

The [Land Tax Assessment Amendment \(Build-to-Rent\) Bill 2023 \(WA\)](#) has completed its passage through the Western Australian Parliament and received Royal Assent on 15 May 2024. The new law amended the *Land Tax Assessment Act 2002 (WA)* to introduce a 50 per cent land tax exemption for land used for a new build-to-rent development which was initially announced in the 2022–23 WA State Budget.

The exemption applies to eligible build-to-rent developments from the 2023–24 assessment year.

To qualify for the exemption, the following requirements must be met:

- The land containing the development must be owned by the same owner or group of owners and managed by one management entity.
- The development must have been constructed or substantially renovated for the purpose of providing at least 40 self-contained dwellings for lease under a residential tenancy agreement.
- The dwellings in the development must become able to be lawfully occupied between 12 May 2022 and 30 June 2032.

- The dwellings must be available to rent for a term of at least three years, although residents can choose a shorter lease term.
- The dwellings cannot be restricted to certain classes of person unless it is necessary to ensure public health or safety, if the dwellings are social housing, or in prescribed circumstances.

The exemption applies for 20 consecutive assessment years from the first year the development meets the requirements. The exemption will cease to apply if the land no longer meets the criteria.

## QLD: New coal royalty rate floor

The [Progressive Coal Royalties Protection \(Keep Them in the Bank\) Bill 2024 \(QLD\)](#) was introduced into the Queensland Parliament on 23 May 2024 to introduce a coal royalty rate floor, by providing that a regulation may not prescribe coal royalty rates that are lower than those prescribed from time to time. The Bill ensures Parliamentary consideration will be required for any proposed changes that would lower progressive coal royalty rates.

## New South Wales: Surcharge land tax and discretionary trust

In [Pontiac Trading Co Pty Ltd as trustee for the Karina Surjadi Family Trust v Chief Commissioner of State Revenue \[2024\] NSWCATAD 114](#), the New South Wales Civil and Administrative Tribunal rejected the taxpayer's submission that a deed of variation had 'converted' a discretionary trust into a fixed trust for Surcharge Land Tax purposes.

Broadly, the taxpayer argued that the deed of variation had the effect that the trust ceased to be a discretionary trust for the purposes of the *Land Tax Act 1956 (NSW)* in the relevant year, relying on the excisions of all beneficiaries from the class of Eligible Beneficiaries in the trust deed, apart from a sole beneficiary, who was as a result the 'taker in default'.

Ultimately, the Tribunal found that the deed of variation did not change the character of the features of the trust to such extent that it ceased being able to be described as a discretionary trust. The trustee continued to have an interest in the trust property and had duties consistent with those that existed prior to the deed of variation (and which were consistent with the duties a trustee holds in a discretionary trust). The Tribunal rejected the submission that a trust cannot be described as a discretionary trust simply because there was a single beneficiary. Accordingly, the surcharge land tax assessments for the relevant years were confirmed.

# Superannuation Update

## Superannuation and the 2024–25 Federal Budget

The 2024–25 Federal Budget, handed down on 14 May 2024, contained only one superannuation measure that confirmed that the Government will include superannuation in the Paid Parental Leave (PPL) scheme. Specifically, 12 per cent superannuation will be paid on Commonwealth government-funded PPL for births and adoptions on or after 1 July 2025.

For further insight into the Budget measures related to personal tax and superannuation, see our in-depth [analysis](#).

## Superannuation and planning for year end

As the end of another year approaches, it is time to turn focus towards superannuation planning and importantly how the proposed 'additional' tax on earnings from superannuation benefits might impact strategies for contributions, pensions and estate planning leading into the proposed introduction date of 1 July 2025. Find out more in our [Alert](#).

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# Legislative Update

Federal Parliament commenced its Winter Sittings on 14 May 2024, which was also the date of the 2024–25 Federal Budget. Refer to [PwC's comprehensive Budget analysis](#) for all key tax and superannuation measures reported in the Budget.

The following tax or superannuation related Bills were introduced into Federal Parliament since our last update:

- The [Excise and Customs Legislation Amendment \(Streamlining Administration\) Bill 2024](#), which was introduced into the House of Representatives on 16 May 2024, amends the *Excise Act 1901* to streamline licence application and renewal requirements for excise licences to store or manufacture excisable goods (other than tobacco goods). Additionally, the Bill amends the *Customs Act 1901* to streamline licence application and renewal requirements for customs warehouse licences that authorise the warehousing of excise-equivalent goods. The Bill also establishes a public register of entities that hold such licences. Once legislated, the Bill will commence on the later of 1 July 2024 and the day after royal assent.

The following tax and superannuation related Bills have now completed their passage through Parliament:

- The [Treasury Laws Amendment \(Tax Accountability and Fairness\) Bill 2023](#), which includes measures to amend the *Petroleum Resource Rent Tax Assessment Act 1987* to effectively cap the availability of deductible expenditure incurred in relation to a petroleum project for a year of tax, as well as a range of administrative reforms including measures to reform the Tax Practitioners Board (TPB), enhance promoter penalty laws, extend tax whistleblower protections, and enhance information sharing by taxation officers and TPB officials with Treasury and prescribed professional disciplinary bodies.
  - The [Administrative Review Tribunal \(Consequential and Transitional Provisions No. 1\) Bill 2024](#) and the [Administrative Review Tribunal \(Consequential and Transitional Provisions No. 2\) Bill 2024](#), which forms part of a package of Bills that would abolish the Administrative Appeals Tribunal (AAT) and establish the Administrative Review Tribunal. These Bills make consequential amendments across a range of Commonwealth Acts and providing transitional rules which facilitate the smooth transition from the AAT to the Tribunal.
- The following Commonwealth revenue measures were registered as a legislative instrument since our last update:
- [Taxation Laws \(Requirement to Lodge a Return for the 2024 Year\) Instrument 2024](#), which specifies which persons are required to lodge an income tax return for the 2024 income year, and when a return must be lodged. This includes a new requirement for not-for-profits (NFP) self-review returns to be lodged.
  - [Income Tax Assessment \(Requirement for Parents Liable for or Entitled to Child Support to Lodge a Return for the 2024 Year\) Instrument 2024](#), which requires certain parents liable for or entitled to child support to lodge an income tax return for the 2024 income year.
  - [Treasury Laws Amendment \(Miscellaneous and Technical Amendments\) Regulations 2024](#), which makes miscellaneous and technical amendments to regulations in the Treasury portfolio, including to laws with respect to corporations, superannuation and taxation. It includes amendments to the *Superannuation Industry (Supervision) Regulations 1994* to support measures relating to the First Home Super Saver Scheme and to update the *Taxation Administration Regulations 2017* to correctly reflect the name of the prescribed taskforce from "Black Economy Taskforce" which is now the "Show Economy Taskforce".

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# Other News Update

## Extension of \$20,000 instant asset write-off

In the 2024–25 Federal Budget it was announced that small businesses with aggregated turnover of less than \$10 million will be eligible for the \$20,000 instant asset write-off for an additional year, enabling small businesses to immediately deduct eligible depreciating assets costing less than \$20,000 that are first used or installed ready for use by 30 June 2025. From 1 July 2025, the asset cost threshold will revert to \$1,000.

The \$20,000 threshold will apply on a per asset basis, meaning small businesses can instantly deduct the cost of multiple assets.

Assets valued at \$20,000 or more (which cannot be immediately deducted) can continue to be placed into the small business simplified depreciation pool and depreciated at 15 per cent in the first income year and 30 per cent each income year thereafter.

The provisions that prevent small businesses from re-entering the simplified depreciation regime for five years if they opt-out will continue to be suspended until 30 June 2025 (i.e. it is permissible to re-enter the simplified depreciation regime until 30 June 2025).

## Funding and additional powers for the ATO

Several measures were announced at Federal Budget 2024–25 to provide additional funding and powers for the Australian Taxation Office (ATO). This includes:

- Additional funding to the ATO to extend the following compliance programs:
  - the Personal Income Tax Compliance Program for one year from 1 July 2027,
  - the Shadow Economy Compliance Program for two years from 1 July 2026, and

- the Tax Avoidance Taskforce for two years from 1 July 2026, which has a focus on multinationals, large public and private businesses, and high-wealth individuals.

- Funding to strengthen the ATO's ability to detect, prevent and mitigate fraud against the tax and superannuation system over four years from 1 July 2024.
- Amendments to the tax law to give the Commissioner of Taxation a discretion to not use a taxpayer's refund to offset outstanding tax debts where the Commissioner has put that old tax debt on hold prior to 1 January 2017. This discretion will apply to individuals, small businesses and not-for-profits only.

## Other Federal Budget announcements

The following income tax related measures, which have not been separately reported elsewhere in this edition of the Monthly Tax Update, were also announced in the 2024–25 Federal Budget:

- Additional funding will be provided over four years from 2024–25 to support the Payment Times Reporting Regulator to implement reforms recommended by the statutory review of the Payment Times Reporting scheme, including increased resourcing of the Regulator and upgrading the Regulator's technology infrastructure.
- The Government will no longer proceed with the 2019–20 Budget measure to strengthen the Australian Business Number (ABN) system as integrity issues are being addressed through enhanced administrative processes implemented by the ATO.

For further insight into the Budget measures, our in-depth analysis can be found [here](#).

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## Top up payments not blackhole expenditure

In [Satterley Property Group Pty Ltd v Federal Commissioner of Taxation \[2024\] FCA 421](#), the Federal Court of Australia considered whether 'Top-Up Payments' were deductible under general principles (in section 8–1 of the *Income Tax Assessment Act 1997*), or in the alternative whether such expenditure was eligible 'black hole' expenditure under section 40–880. The Court found that no deduction for the expense was available under either provision.

According to the taxpayer, the Top-Up Payments were paid to overcome the negative impact on a group of investors in respect of the losses they sustained from indirectly investing in certain land development projects that the taxpayer had promoted and for which it had received management and selling fees. The taxpayer claimed that the payments were also made to attract investors to invest in future property development projects, and that the expenditure maintained its fee income from such future projects and its reputation and goodwill, such that the costs were incurred on revenue account. In the alternative, the taxpayer argued that relief should be available under the 'black hole' expenditure provisions.

Ultimately, the Court determined that section 8–1(1) did not apply, because the loss or outgoing was capital or of a capital nature. The Court noted, among other observations, that according to the share sale agreements, the Top-Up Payments formed part of the consideration paid by the taxpayer for shares and were not solely payments to preserve the taxpayer's goodwill.

The Court also found that section 40–880 was not engaged because the capital expenditure fell within an exception within the black hole provisions under section 40–880(5)(f), with section 40–880(6) not in point.

## Crypto asset data-matching program

The ATO will embark on a [data-matching program](#) under which it will acquire account identification and transaction data from crypto designated service providers for the 2023–24 financial year through to the 2025–26 financial year (inclusive), including client identification and transaction details such as transaction quantities and coin type.

The data will be acquired and matched to ATO systems to identify taxpayers who failed to report a disposal of crypto assets in their income tax return. The ATO estimates that records relating to approximately 700,000 to 1.2 million individuals and entities will be obtained each financial year.

## IGTO releases interim report on tax identity fraud

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) has released an [interim report](#) of its own initiative investigation into Tax Identity Fraud, which focuses on the importance of bank account integrity.

The IGTO makes a total of 13 recommendations for ATO improvement in its interim (Phase 1) report, which focuses on three broad areas:

- Improvements to make the ATO less attractive to fraudsters by making it harder for them (and not legitimate taxpayers) to divert monies to the fraudster's bank account
- Improvements which harden the financial system against tax identification (TaxID) fraud by introducing more effective collaboration between the ATO and the banks on case-specific issues in real-time, and
- Improvements to better detect and prevent TaxID fraud by empowering the two key participants in the tax system to assist the ATO, who are much better placed than the ATO to quickly and more reliably determine if a transaction is part of a TaxID fraud or not – i.e. legitimate taxpayers and their agents.

In [response](#), the ATO agrees in principle with the majority of the interim recommendations, noting that some are matters for Government to consider, particularly in relation to law reform and investment.

## Consultations regarding information gathering powers

Treasury has released a consultation paper dealing with the tax regulator's [information gathering powers](#). Specifically, the paper examines whether the ATO's information gathering powers remain fit for purpose (including specific consideration of whether the current time period for responding to an offshore information notice is appropriate) and operate to allow the ATO to properly assist the Australian Federal Police to investigate serious criminal offences perpetrated against the tax and superannuation systems. It also considers the limitations on the TPB using formal information gathering powers prior to commencing a formal investigation. Comments closed 31 May 2024.

## Who is required to lodge a 2024 income tax return?

Two Legislative Instruments have been registered, which set out which persons and entities might be required to lodge an income tax return for the 2023–24 income year.

The [Taxation Laws \(Requirement to Lodge a Return for the 2024 year\) Instrument 2024](#) specifies which persons are required to lodge an 2023–24 income tax return, and when that return must be lodged. This includes a new requirement for not-for-profit (NFP) self-review returns to be lodged (see below).

Other lodgment requirements for franking returns, venture capital deficit tax returns, ancillary fund returns, and trustees of self-managed superannuation funds are also set out.

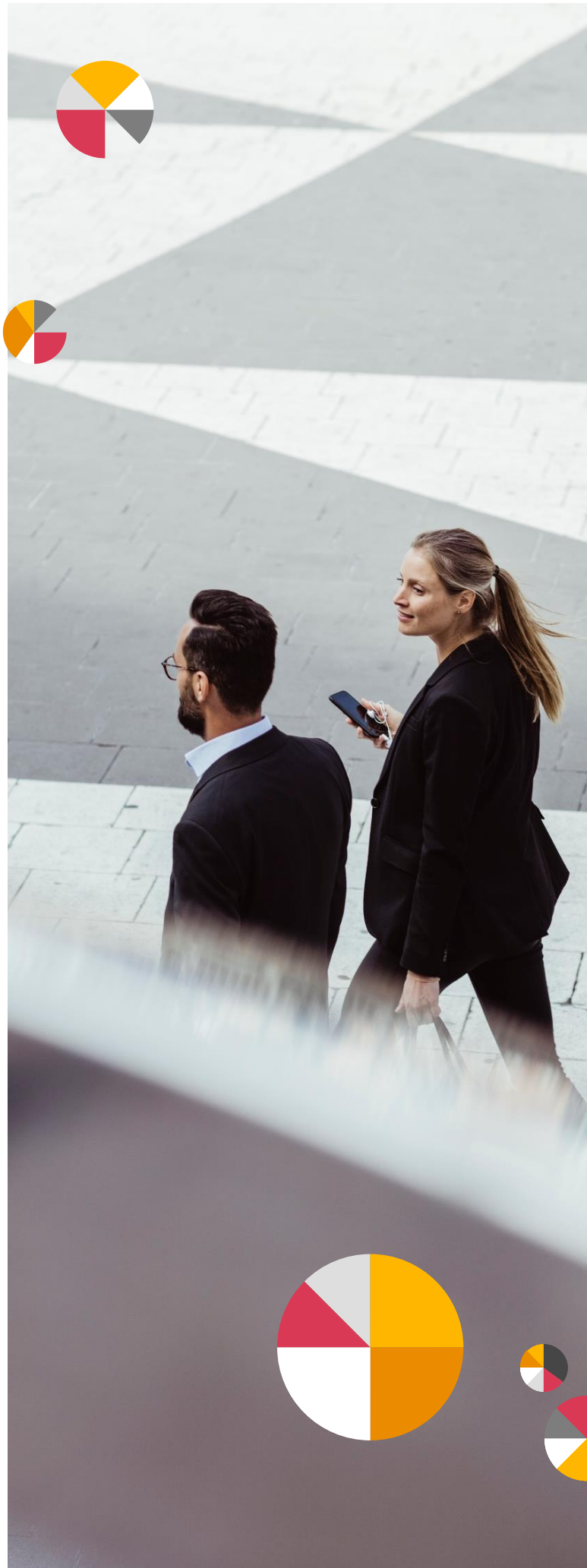
The [Income Tax Assessment \(Requirement for Parents Liable for or Entitled to Child Support to Lodge a Return for the 2024 Year\) Instrument 2024](#) specifies that a parent liable for or entitled to child support is required to lodge an income tax return for the 2024 year, unless:

- the total of certain amounts they received during that income year was less than \$28,464, and
- they received one or more specified Australian Government pensions, allowances or payments for the whole of that income year.

## New annual compliance obligation for tax exempt not-for-profits

From the 2023–24 income year, non-charitable NFP organisations with an active ABN are required to lodge an annual NFP self-review return with the ATO to self-assess their income tax exemption under one of eight categories.

The first NFP self-review return is for the 2023–24 income year, which is due by 31 October 2024. The ATO is currently sending information to affected entities about this new obligation and has [published](#) guidance on how to prepare an NFP self-review return.



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