



Monthly Tax Update

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

3 November 2025





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Corporate tax update

Consistency in tax treatment of foreign bail-in bonds

The Income Tax Assessment (1997 Act) Amendment (Term Subordinated Note) Regulations 2025 ensure consistent tax treatment for financial instruments issued by foreign-regulated entities and Australian Prudential Regulation Authority (APRA) regulated entities that are subject to non-viability conditions.

The effect of this Regulation is to extend the approach currently applied to instruments issued by APRA regulated entities to those subject to comparable foreign regulators. As a result, all instruments subject to non-viability conditions imposed by regulators are eligible to be treated as debt, should the other requirements of the debt instrument test be satisfied. This means that bail-in bonds for Australian branches of foreign banks can be treated as a debt for tax purposes as applies to bail-in bonds issued domestically by Australian banks. The 2025 Regulations apply retrospectively from 12 December 2012.

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High Court to consider capital losses on share sale scheme

The High Court has granted both the taxpayer's and Commissioner's application for special leave to appeal to the High Court from the Full Federal Court decision in the Merchant case. In this case, the majority of the Full Federal Court found largely for the Commissioner regarding a share-sale scheme designed to crystallise a significant capital loss. The case considered the application of Part IVA (general anti-avoidance rules), dividend stripping and the taxation of financial arrangements (TOFA). Refer to our Monthly Tax Update for May 2025 for a summary of the Full Federal Court decision.

Division 7A guidance on loans through interposed entities

The Australian Taxation Office (ATO) has finalised Taxation Determination TD 2025/6, which considers the application of the deemed dividend-rules in respect of private company guarantee arrangements.

The ATO's view is that section 109U in Division 7A of the Income Tax Assessment Act 1936 may apply in cases where a guarantee is given by a private company to an entity that is not a private company. However, while any entity (including a public company) can be the recipient of a guarantee, the entity making the ultimate payment or loan to the 'target entity' must be a private company pursuant to s109U(1)(c).



The Determination also documents the Commissioner's compliance approach to section 109U in recognition that it is common for banks and other financial institutions to seek guarantees from related entities when providing loans to private companies. Specifically, the ATO indicate that it will focus the application of compliance resources concerning the application of section 109U to high-risk arrangements that display clearly artificial or contrived elements, such as where, on an objective assessment, one or more of the private companies involved in the arrangement entered into or carried out the arrangement with a view to circumventing Division 7A, including through the exploitation of one or more private companies with no distributable surplus. Furthermore, compliance resources will not be allocated to the application of section 109U in circumstances where it can be evidenced that a genuine section 109N-compliant loan has been made to the target entity provided that, on an objective assessment, the written agreement under which this loan is made genuinely reflects the parties' intentions.

The Determination has effect both before and after its date of issue.

Guidance finalised on capital raising for funding franked distributions

The ATO's Practical Compliance Guideline PCG 2025/3 outlines the framework the ATO uses to assess risk in relation to the integrity measure in section 207-159 of the Income Tax Assessment Act 1997 which operates to deny franking credits attached to certain distributions associated with a capital raising.

The PCG is designed for corporate tax entities to use the framework in the Guideline to understand the:

- Level of compliance risk present in arrangements in relation to the integrity measure, enabling taxpayers to make informed decisions about the likelihood that they will be subject to compliance action
- Features of arrangements that the ATO consider present greater compliance risk, and
- Types of documentation that the ATO considers to be relevant when assessing the compliance risk associated with your arrangement.

Relevantly, the PCG sets out five scenarios which the ATO consider to be low risk ('green zone' arrangements) for which the ATO will not apply compliance resources to consider the application of s207-159, other than to confirm that the features of the relevant scenario are present in the circumstances:

- The distribution is consistent with the past practice over the preceding three years of distributions paid in relation to the relevant class of shares, where the timing, amount, and franking percentage are fundamentally consistent.
- The distribution is made under an arrangement involving a dividend reinvestment plan (whether underwritten or not) that is undertaken for normal commercial purposes, where it is not an artificial or contrived arrangement.
- The issue of equity interests funded (directly or indirectly) less than 20% of the entire franked distributions paid to all eligible shareholders.
- The issue of equity interests by entities regulated by APRA is to meet minimum regulatory requirements, or to maintain a reasonable buffer beyond the minimum regulatory requirements.
- For private companies only - the distribution was made under an arrangement where the capital raising, and distribution are initiated to facilitate the departure of one or more shareholders from the company (for example, succession planning and shareholder exits).

The Guideline applies to distributions made on or after 28 November 2023.

Further update to ATO guidance on access to Board compliance risk advice

The ATO has once again updated Practice Statement **PS LA 2004/14** which considers ATO access to advice for a corporate board on tax-compliance risk. As reported in the [August 2025 Monthly Tax Update](#), the ATO had updated the Practice Statement in a way that would have imposed an additional condition to access the concession that, in the first instance, the ATO will not aim to review documents that contain advice to a corporate board on tax compliance risk.

The updated Practice Statement now indicates that the ATO will rely on evidence of good governance, as described in the [Tax risk management and governance review guide](#), when considering if it can accept a claim for the concession. Furthermore, if a taxpayer has been through a justified trust review, the ATO will have regard to that review.

Corporate tax transparency report for 2023-24

The ATO has released the [Corporate tax transparency report](#) for the 2023-24 income year, which reports the name, Australian Business Number (ABN), total income, taxable income and tax payable for some of the largest corporations operating in Australia, comprising:

- any corporate tax entity with a total income equal to or exceeding \$100m
- entities that have petroleum resource rent tax (PRRT) payable.

This year's corporate tax transparency report covers 4,110 corporate entities, which had a combined tax payable of AU\$95.7b, a decrease of 2.3% from 2022 – 23. Other [highlights](#) include:

- Total income for 2023-24 was AU\$3,278.8b, an increase of 4.5%
- Taxable income was AU\$365.5b, a decrease of 3.8%
- The mining, energy, and water segment paid around half of the tax payable in the corporate transparency population, with 50.6% (AU\$48.5b) of the total
- Approximately 28% of entities paid nil tax. Of those entities, 13% incurred an accounting loss, 4% incurred a tax loss, 2% utilised offsets, and 9% utilised tax losses from previous years
- PRRT payable decreased 20.6% from AU\$1,867.1m last year to AU\$1,483.3m this year, largely due to decreased production and lower oil prices.

Second R&D tax transparency report released

The ATO has published its [second](#) research and development (R&D) report on data about R&D tax incentive entities. The report includes R&D entities that have claimed the R&D tax incentive (R&DTI) for the 2022 – 23 income year and for those that have claimed or amended their claim to the R&DTI for the 2021 – 22 income year since 31 July 2024.

Key highlights include:

- The total amount of R&D expenditure claimed for the 2022-23 income year is AU\$16.2b, with 12,956 companies having claimed R&D expenditure for the 2022-23 income year
- Public and multinational businesses invested the most in R&D in the 2022-23 income year with a total of AU\$8.7b claimed
- Small businesses had the highest proportion of claimants, with a total of 6,016 claimants, making up 46% of the total population
- The professional, scientific and technical services industry (which includes businesses such as scientific research, computer system design and accounting services) claimed more R&D expenditure than any other industry and made up 44% of the number of claims
- Australian-owned companies accounted for 93% of this year's population, with 12,055 reporting R&D expenditure.

Public groups and multinational business tax certainty findings report

The ATO has released its [findings report](#) about how it provides tax certainty to public and multinational businesses for the 2020-21 to 2024-25 financial years.

The report details:

- Insights on the requests for tax certainty that the ATO receives (e.g. through private rulings, class rulings, and early engagement)
- Observations about the time it takes the ATO to provide its service offerings and the key factors that impact its timeliness, and
- For the Advice and Guidance (A&G) program, the ATO's key findings about the outcomes of its engagements, and
- For the Advance Pricing Agreement (APA) program, observations and insights regarding trends and changes to the APA population composition and demographics.

The insights from this report are used by the ATO as part of its commitment to continuous improvement of the programs. The ATO also uses the findings and observations to inform how it can better educate and assist taxpayers to obtain tax certainty through the most effective and efficient use of both programs.

Disputes and settlements 2024-25 findings report for public and multinational business

The ATO has released its [findings report](#) outlining the ATO's key findings and observations on income tax, PRRT and GST disputes for 2024 – 25. The report covers:

- Compliance results
- Disputed assessments; and
- Dispute resolution, objections, settlements, litigation and mutual agreement procedures (MAP).

Key highlights include:

- The ATO's compliance activities in respect of public and multinational businesses continue to raise significant liabilities, with an additional AU\$2.2b paid voluntarily because of ATO compliance actions taken in prior years as well as preventative compliance intervention. The report also notes that the ATO raised AU\$4.11b in total income tax liabilities (including interest and penalties) during 2024– 25, as well as AU\$385m in total GST liabilities (including interest and penalties).
- Despite large business being one of the most compliant sectors, disputes with large business continue - of the ATO's current 127 audits, 40 relate to taxpayers in the Top 100 population and 62 relate to taxpayers in the Top 1,000 population.
- Global profit shifting also continues to be a major focus in disputes, with around 70% of current income tax audits involving behavioural risks relating to international related party dealings and cross border investments and structures. Transfer pricing is the most relevant event attracting the ATO's attention, where well understood issues of financing and marketing hub arrangements continue to be in focus, while increasing resources are being applied to mischaracterisation and supply chain risks in the context of evolving business models.
- In 2024– 25, the ATO settled 18 separate disputes with public and multinational businesses securing \$811m of tax revenue.

No eligible R&D activities conducted

In Ultimate Vision Inventions Pty Ltd and Industry, Innovation and Science Australia (Taxation) [2025] ARTA 1813, the Administrative Review Tribunal (ART) has found that the taxpayer was not eligible for the research and development (R&D) tax incentive, as no qualifying activities had been conducted during the relevant years.

The issue in dispute was whether the taxpayer's activities relating to the development of a health and fitness system qualified for registration with Industry, Innovation and Science Australia (IISA). This matter was heard by the Tribunal after having been remitted from the Full Federal Court in Ultimate Vision Inventions Pty Ltd v Innovation and Science Australia [2023] FCAFC 23.

Ultimately, the ART concluded that none of the activities were 'conducted' in the relevant years thus precluding them from being eligible for the R&D tax incentive. While the Tribunal also accepted that the taxpayer faced challenges during the relevant years which affected its ability to progress the health and fitness system, including significant funding constraints, the Tribunal noted that the statutory scheme focusses on what the R&D entity actually did in relation to the activities specified in its registration application, not what the R&D entity hoped or intended to do.





Employment taxes update

Payday Super legislation introduced

The Treasury Laws Amendment (Payday Superannuation) Bill 2025 was introduced into Parliament on 9 October 2025. The Bill outlines an amended proposal of the Payday Super regime (specifically, amended from the exposure draft previously released by Treasury from consultation), which if passed, will be effective from 1 July 2026.

Broadly, the Bill requires employers to align superannuation contributions (to employee superannuation funds) more closely to the employers' payday cycle, replacing the current quarterly contribution requirement. More specifically, the Bill introduces a number of significant updates to the superannuation guarantee (SG) framework, including:

- a requirement for employers to ensure eligible SG contributions are not only 'paid' within the prescribed time frame (in most cases, within seven business days of each payday, subject to specified exceptions) but also for those contributions to be received by the fund and 'able to be allocated' to employee superannuation account within the prescribed time frame
- replacing the quarterly maximum contributions base (MCB) with an annual limit

Let's talk

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- changes to the SG Charge (SGC) calculation (including shortfalls, interest and penalties), and the associated voluntary disclosure and assessment processes, where SG shortfalls arise.

These changes will apply to any person meeting the broad definition of the term, 'employee', for superannuation purposes.

Transitional arrangements will apply as the new regime commences, and consequential amendments have been proposed to other tax and related laws to give effect to the Bill. Relevantly, it is proposed that superannuation contributions be deductible, regardless of whether they are on time, late, or whether they form part of an SGC amount.

To accompany the introduction of the Bill, the Australian Taxation Office (ATO) has published a [Payday Super guidance page](#) to help employers prepare for the new requirements.

Lastly, expanded Single Touch Payroll (STP) reporting requirements are expected to provide alignment to concepts introduced by the Payday Super regime.

For more information, see our [Tax Alert](#).

ATO's Payday Super compliance approach

The ATO has released draft Practical Compliance Guideline [PCG 2025/D5](#), outlining its intended risk-based compliance approach for the first year of operation of the proposed Payday Super legislation.

The PCG introduces three risk zones that employers may fall into, depending on their circumstances. For the first year of the operation of Payday Super, the ATO will prioritise its allocation of superannuation-focused compliance resources to employers classified as being high or medium risk.

An employer will broadly fall within the high-risk zone if they have one or more 'final individual SG shortfalls' (as defined in the proposed law), which have not been reduced to nil by the 28th day following the end of the quarter that the qualifying earnings were paid in, or if the employer does not otherwise fall within the low- or medium-risk zones.

The draft PCG provides that compliance resources may still be allocated to employers falling within the medium-risk zone and that the ATO will generally not have cause to dedicate compliance resources to the low-risk zone. An employer's risk zone can change from pay period to pay period.

Relevantly, an employer may fall into a medium or high-risk zone not only based on an absence of timely remittances, but also based on accuracy of calculations – for example, if remittances for an employee are on a timely basis (i.e. "able to be allocated" within seven business days) but the calculation of SG owing is incorrect (for example, on the basis that certain payments were inadvertently not superannuated or due to incorrectly applying the annual maximum contribution base).

A final point of note on the draft PCG is that it confirms the ATO is required to apply the law to an employer even if they are in the low-risk zone, if information is obtained that an employer has one or more SG shortfalls.

Comments on the draft PCG can be submitted until 7 November 2025.

For more information, see our [Article](#).

NSW employment agency case: Payroll tax on cleaning sector subcontractors

In [SKG Cleaning Services Pty Ltd v Chief Commissioner of State Revenue; Ezko Property Services \(Aust\) Pty Ltd atf The Ezko Unit Trust v Chief Commissioner of State Revenue \[2025\] NSWSC 1219](#), the NSW Supreme Court upheld payroll tax assessments, including penalties, on payments to subcontractors after finding that the taxpayer's contracts were 'employment agency contracts' for payroll tax purposes.

The Court emphasised that detailed and prescriptive contracts, which required regular and recurring on-site performance, compliance with client policies, and allowed the client a high degree of control and supervision over personnel, combined with the nature of services, demonstrated the requisite criteria of an employment agency contract. The taxpayers failed to discharge the onus of proving the assessments were excessive, due to incomplete records and a lack of evidence of mapping payments to specific contracts.

ATO focus on Significant Global Entities and TPAR penalties

The ATO has increased its scrutiny of significant global entities (SGEs) regarding timely lodgment of taxable payments annual reports (TPARs). A TPAR is required to be lodged with the ATO by entities that provide the following services that come under the Taxable payment reporting system (TPRS) and pays contractors to deliver them:

- building and construction
- cleaning
- courier and road freight
- information technology (IT)
- security, investigation, or surveillance.

In the 2023–24 financial year, the ATO reports that 1,450 SGEs disclosed over \$89.5b in gross payments and \$7.6b in GST to more than 720,000 contractors. Penalties for late TPAR lodgment can be substantial, with the ATO reporting that in a recent case there was a \$639,600 failure to lodge penalty imposed before the entity lodged overdue TPARs, revealing over \$190m in payments. Notably, each entity within an SGE group must lodge TPARs individually, with penalties reaching up to \$825,000 per entity.

The ATO expects SGEs to have robust systems in place and is using TPAR data to ensure tax compliance.

ART affirms default superannuation guarantee charge assessments

In PCQT v Commissioner of Taxation [2025] ARTA 1873, the Administrative Review Tribunal (ART) affirmed default SGC assessments against a taxpayer who failed to prove that salary or wages were not paid to his former spouse, employed as his personal assistant.

The Commissioner had issued default SGC assessments to the taxpayer in relation to lump-sum payments made to the former spouse on the basis that the payments were salary or wages. The Applicant argued the payments did not have the characteristics of salary or wages, and that he did not know what the payments were for.

The applicant's evidence was insufficient to discharge the burden of proof, and the ART upheld the SGC assessments and penalties.





Indirect tax update

GST-free treatment of small packs of analgesics extended

The GST-free Supply (Drugs and Medicinal Preparations) Determination 2025, effective 1 October 2025, extends the GST-free treatment that applies to supplies of packs containing 25 or less tablets (small packs) of analgesics containing aspirin, ibuprofen, and paracetamol. The determination repeals the whole of the GST-free Supply (Drugs and Medicinal Preparations) Determination 2015, which would have otherwise sunsetted on 1 October 2025.

Legislative instrument to continue notional taxation of Commonwealth entities

Legislative instrument A New Tax System (GST, Luxury Car Tax and Wine Tax) Directions 2025 continues to give effect to Parliament's long-standing intention that Commonwealth entities are to be notionally liable to pay certain taxes.

Let's talk

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The directions apply only to entities that cannot be made liable to taxation by a Commonwealth law; for example, non-corporate Commonwealth entities such as Departments of State. The Directions maintain existing arrangements to support the notional application of certain taxes to the Commonwealth and untaxable Commonwealth entities. This ensures that these entities do not receive a comparative advantage compared to other entities that have a legal liability under the Goods and Services Tax (GST), Luxury Car Tax and Wine Equalisation Tax laws.

Once registered, the 2025 Directions will be taken to apply from tax periods commencing on or after 1 October 2025, whether or not commencement occurs prior to or after this date. This is intended to ensure continuity of GST arrangements for the Commonwealth and relevant Commonwealth entities following the sunset of A New Tax System (GST, Luxury Car Tax and Wine Tax) Direction 2015 on 1 October 2025.

GST assessments on sales of subdivided lots upheld

In VZFS and Commissioner of Taxation (Taxation) [2025] ARTA 2013, the Administrative Review Tribunal considered whether a taxpayer was liable for GST on sales of subdivided land, finding that the Commissioner's assessments were not excessive.

The land in question comprised some 70 hectares of rural land that had been farmed by the taxpayer's family for generations. The taxpayer entered into an agreement with a developer under which the developer at its own cost sought re-zoning and developmental approvals, carried out or caused development works to be carried out, and marketed the subdivided lots. The taxpayer progressively gave the developer access to the property as required and signed documents where necessary as owner, including contracts for sale of the subdivided lots. The taxpayer received 20% of sale proceeds progressively as sales of the subdivided lots were completed, with the developer receiving the remainder.

The Tribunal concluded that the activities carried out by the taxpayer had the appearance or characteristics of business activities, with the parties' agreement to undertake the project being a commercial arrangement. Further, the taxpayer's role was not entirely passive, and the aim of the project could not be achieved without the taxpayer granting access to the lands and subsequently executing contracts of sale, nor without the range of other obligations that fell upon and were discharged by the taxpayer, including signing or consenting to the re-zoning and development applications. This meant that since the sales of the lots were made in the course of furtherance of a series of activities in the form of a business, any GST brought to account on the sales of the lots was not excessive.





International tax and trade update

PwC's global tax transparency and tax sustainability reporting study 2025

Tax transparency and sustainability reporting are increasingly important for tax leaders worldwide. Beyond compliance, they address reputational risks as investors, employees, and other stakeholders, and closely monitor companies' tax contributions and their societal impact. [PwC's latest global tax transparency and tax sustainability reporting study](#) shows analysis of 956 of the world's largest multinational corporations from across 24 territories and provides insights into how businesses are responding and preparing for these reporting regulations, covering voluntary to mandatory disclosure, with initiatives such as public country by country reporting and the EU's Corporate Sustainability Reporting Directive (CSRD). This is the first time Australia has participated in the study, with 25 ASX listed companies surveyed as part of the study.

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New thin capitalisation regime: ATO's finalised guidance on third party debt test

The Australian Taxation Office (ATO) issued final Taxation Ruling [TR 2025/2](#) outlining key concepts within the third party debt test under the new thin capitalisation rules. The third party debt test is an elective choice that broadly allows an entity to deduct all its 'debt deductions' attributable to a debt interest that satisfies the 'third party debt conditions'. This final Ruling largely maintains positions that are consistent with the draft ruling released last year, while providing expanded commentary and examples for certain conditions.

The ATO has also updated Practical Compliance Guideline [PCG 2025/2](#) with the inclusion of Schedule 3 that contains the compliance approaches to restructures in relation to the third-party debt test. The PCG provides targeted compliance approaches which taxpayers can rely on to restructure their arrangements to fall within the third party debt test without attracting ATO compliance resources.

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

Public CBC reporting – Schema and approved form

By way of reminder, Australia's public country-by-country (CBC) reporting regime broadly applies to CBC reporting parent entities that are part of a CBC reporting group with annual global income of at least AU\$1b and with Australian-sourced income of AU\$10m or more. Under this regime, affected entities are required to submit data on their global financial and tax footprint to the ATO, which will be made available publicly. The first reporting to be provided to the ATO is due by 30 June 2026 in respect of a reporting period ending on 1 July 2025.

To support the new obligation, the [Public CBC Reporting XML Schema and a Business Implementation Guide](#) have now been released. This sets up the standardised template and electronic reporting format to support Digital Service Providers in developing or offering public CBC reporting in the ATO approved form, specifically designed to streamline the presentation of information to be disclosed in the public CBC report.

Public CBC reporting parents are also encouraged to [register](#) at least four weeks before the date they intend to engage with the ATO on a Public CBC matter.

Private rulings and Pillar Two

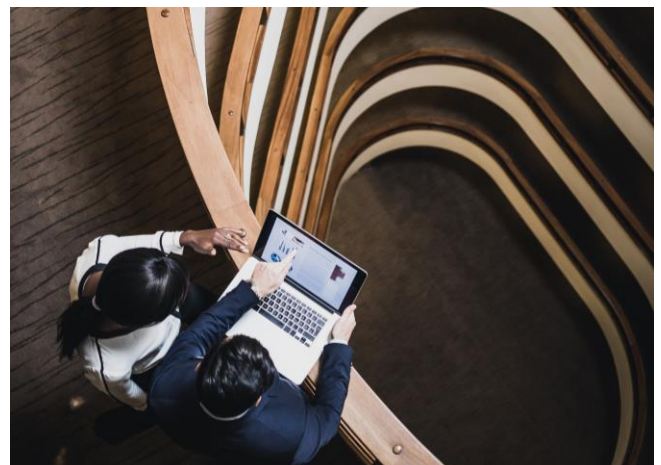
The ATO has issued an [Addendum](#) to Taxation Ruling [TR 2006/11](#) to provide advice on the ability to obtain private rulings on interpretative issues about the Pillar Two global and domestic minimum tax. The update includes:

- A revised reference to the provisions that are relevant to rulings, which include the new Pillar Two legislative provisions ;and
- An explanation that the Commissioner of Taxation may decline to rule on a private ruling in relation to the application of the Australian income inclusion rule tax, undertaxed profit rule tax or domestic minimum top-up tax if the Commissioner considers that it would not be reasonable to comply with the application. The updates include examples where this might occur.

Australia's first double tax treaty with Ukraine

On 16 October 2025, the [Australian Treasurer signed the first ever tax treaty](#) between Australia and Ukraine – the Convention between the Government of Australia and the Government of Ukraine for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance – as well as its associated Protocol.

The [new treaty](#) will enter into force after both countries have completed their domestic requirements and instruments of ratification have been exchanged.



ATO access to offshore information

The ATO has issued a draft [Decision Impact Statement](#) that outlines the Commissioner's response to a decision of the Federal Supreme Court of Switzerland last year which dismissed a Swiss company's appeal against a lower Swiss court's earlier decision to uphold a request for information relevant to a transfer pricing audit that the ATO made to the Swiss Federal Tax Administration (SFTA). In this matter the ATO had requested (pursuant to Article 25 of the *Convention between Australia and the Swiss Confederation for the Avoidance of Double Taxation with respect to Taxes on Income*) that the SFTA provide information concerning the Swiss supplier's dealings with the head company and the head company's Australian subsidiaries as part of its consideration of the transfer pricing laws that applied the arm's length principle to transactions between affiliated and non-affiliated companies.

The ATO indicates that this decision demonstrates that the application of Australia's transfer pricing laws to the commercial or financial relations of cross-border entities, whether or not they are associated enterprises for tax treaty purposes, should not limit the ATO's ability to request information under tax treaties, where that information is foreseeably relevant to ensuring compliance with those laws. The ATO states that this case supports its use, in appropriate cases, of exchange of information (EOI) powers under Australia's income tax treaties, to request information from foreign jurisdictions which it consider relevant to administering or enforcing Australia's transfer pricing laws.

OECD releases 2025 peer review report into CBC reporting

The Organisation for Economic Co-operation and Development (OECD) has released its latest annual [country by country reporting peer review report](#) which presents the findings of the 2024-25 peer review of the implementation of CBC reporting across 142 jurisdictions that provided relevant legislation or information.

For each jurisdiction, the review covers the domestic legal and administrative framework, the exchange of information framework and measures in place to ensure the confidentiality and appropriate use of CBC reports.

Key findings from this review include:

- Over 120 jurisdictions have a domestic legal framework for CBC reporting in place, with a number of jurisdictions having final legislation approval that is awaiting official publication.
- Of the jurisdictions included in the review, 101 jurisdictions have multilateral or bilateral competent authority agreements in place
- 107 jurisdictions have undergone an assessment by the Global Forum on Transparency and Exchange of Information for Tax Purposes concerning confidentiality and data safeguards and did not receive any action plan.
- 89 jurisdictions provided detailed information, enabling the Inclusive Framework to obtain sufficient assurance that measures are in place to ensure the appropriate use of CBC reports.

OECD Secretary-General Tax Report to G20

The latest [OECD Secretary-General Tax Report to the G20](#) prepared for the G20 Finance Ministers and Central Bank Governors meeting held in Washington, DC on 15-16 October 2025, highlights key developments in international tax co-operation. The report outlines the OECD's ongoing support of G20 priorities, such as the implementation of the base erosion and profit shifting (BEPS) minimum standards, the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, and tax transparency.

It also includes reports on a [decade of the BEPS initiative](#) and presents a voluntary [framework to facilitate the automatic exchange of information on immovable property](#). In relation to the development of a side-by-side Pillar Two solution to enable the interaction of the global minimum tax with the pre-existing minimum tax regime in the United States (US), technical work is being undertaken by the Inclusive Framework with progress continuing and the hope for a solution acceptable to all members by the end of the year.

New Zealand – latest Pillar Two and other developments

The latest [Tax Policy Bulletin](#) from PwC New Zealand provides an update on New Zealand's Pillar Two compliance obligations, including registration and filing requirements, highlights the NZ Inland Revenue's latest guidance on the new Investment Boost as well as a summary of the Inland Revenue's recent publications and open consultations.

Australia-UAE Comprehensive Economic Partnership Agreement – What it means for you

The Australia – United Arab Emirates (UAE) Comprehensive Economic Partnership Agreement (CEPA) entered into force on 1 October 2025, unlocking new opportunities for businesses trading between Australia and the UAE. Australian importers and exporters should consider the opportunities that CEPA will offer with our largest trade and investment partner in the Middle East. For more information, refer to our [Tax Alert](#).

Excise guidelines updated for duty-free shops and tobacco

The ATO has updated the following excise guidelines for technical currency and accuracy as of 1 October 2025:

- [Excise guidelines for duty-free shops](#), which is intended to be a reference tool for duty-free shops to assist operators to meet their excise obligations
- [Excise guidelines for the tobacco industry](#), which is intended to be a reference tool for the tobacco industry to assist them to meet their excise obligations. It contains information about the excise system and how it applies to tobacco products (being plant, seed and leaf) and excisable tobacco goods that are produced or manufactured in Australia.

Excise duty - indexation on draught beer

Legislation to pause the indexation of the excise duty rates and customs duty rates on draught beer for two years is currently before Parliament ([Excise Tariff Amendment \(Draught Beer\) Bill 2025](#) and the [Customs Tariff Amendment \(Draught Beer\) Bill 2025](#)).

Usually, indexation on the alcohol excise duty and customs duty rates occurs every six months, generally on 1 February and 1 August. The amendments to the Excise Tariff Act and the Customs Tariff Act pause the CPI indexation that would otherwise apply to the rate of excise duty and excise-equivalent customs duty for draught beer on 1 August 2025, 1 February 2026, 1 August 2026, and 1 February 2027.

Trade compliance for leadership: Navigating a shifting global landscape

In partnership with the World Economic Forum, PwC has prepared a white paper that offers actionable guidance to navigate modern trade hurdles. The paper outlines corporate good practices for trade compliance covering strategic assessment of geopolitical and regulatory risks, embedding cross-functional collaboration, benchmarking trade maturity, and harnessing technology, which can help companies protect continuity, reduce risk, and compete with resilience. For further information and access to the paper, refer to our [Tax Insight](#).

Australia tax update: Developments down under

PwC US has released a podcast episode in its [Cross-border Tax Talks](#) series, focusing on the latest tax developments in Australia. In this episode, we discuss, among other things, Australia's corporate tax landscape, investment incentives, dividend, interest, and royalty withholding taxes, Australia's diverted profits tax, Pillar Two, public CBC reporting rules and restructure disclosures due by end-2025, and key indirect tax issues including non-resident capital gains tax and stamp duty.



State tax update

State land tax foreign surcharges constitutionally valid

On 15 October 2025, the High Court unanimously answered questions of law in the matters of G Global and Stott in relation to the constitutional validity of the foreign owner land tax surcharges in Queensland and Victoria, having regard to international tax agreements and also the constitutionality of last year's amendment to section 5(1) of the International Tax Agreements Act 1953 (Cth) that intended to close the ability to argue that the surcharges should not apply to property owners to which the tax agreement applied.

Ultimately, the High Court found that the amendment made was valid and effective to retroactively remove the inconsistency that had previously existed between the tax treaty and provisions of the Land Tax Act 2010 (Qld) and the Land Tax Act 2005 (Vic).

Refer to our [Tax Alert](#) for further information.

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Victoria: State Taxation Further Amendment Bill

The State Taxation Further Amendment Bill 2025 (Vic) has been introduced into the Victorian Parliament to make various amendments to a number of Victorian tax laws.

The Bill proposes amendments to the Commercial and Industrial Property Tax Reform Act 2024 (Vic) to address anomalies and ensure that a qualifying dutiable transaction will only be an entry transaction and result in land becoming tax reform scheme land where the duty chargeable on the transaction is 50% or more of the duty that would be chargeable on a transfer of the land without any exemption or concession, other than a reduction in duty under section 64B of that Act.

Other amendments are made by the Bill to Victorian duties to:

- Address anomalous outcomes that can occur in relation to New Zealand citizens under the foreign-purchaser additional duty rules, by removing the special-category-visa test and replacing it with a residency test
- Provide an exemption for transfers of dutiable property involving a custodian or subcustodian under a trust; and
- Provide exemptions for tax-reform-scheme land.

In relation to Land taxes, the Bill makes amendments to:

- Address anomalous outcomes that can occur with New Zealand citizens under the absentee-owner rules to ensure only New Zealand citizens who ordinarily reside in Australia are outside the scope of the absentee-owner surcharge (applicable from 1 January 2026)
- Provide a new exemption from land tax for certain land occupied as a principal place of residence (applicable from 1 January 2026)
- Make various amendments in relation to the imposition of vacant residential land tax (applicable from 1 January 2026), and
- Permit the Commissioner of State Revenue to consider applications for relief from liability to pay land tax where the tax assessed for the applicant in a year does not exceed \$5,000.

All amendments will come into operation the day after the Bill receives royal assent, other than in relation to land-tax as indicated above.

NSW: Land tax reminder of changes to PPR exemption

Revenue New South Wales has updated its guidance regarding the New South Wales (NSW) land tax exemption for a person's principal place of residence (PPR) as a reminder that, from the 2026 land tax year onwards, all property owners will need to meet updated eligibility criteria to keep claiming the PPR exemption. To qualify, those living in the property must have a total ownership of 25%.

NSW: Insufficient wording in trust deed leads to assessment to surcharge land-tax

In Enlace Pty Ltd ATF Enlace Trust v Chief Commissioner of State Revenue [2025] NSWCATAD 253, the New South Wales Civil and Administrative Tribunal has upheld the taxpayer's assessments to NSW surcharge land-tax, finding the wording within the trust deed was insufficient to exclude it from the surcharge.

The taxpayer – a corporate trustee of a discretionary trust – was assessed to surcharge land-tax for the 2022 to 2024 land tax years. While the Chief Commissioner of State Revenue acknowledged that amendments had been made to the trust deed, the Chief Commissioner's position was that those amendments did not irrevocably exclude foreign beneficiaries in accordance with section 5D of the Land Tax Act 1956 (NSW), with the result that the taxpayer was a 'foreign person' and liable to surcharge land tax as assessed.

Although the objective intention of the amendment to the trust deed had been to comply with section 5D and avoid surcharge land tax by excluding 'foreign persons' as beneficiaries of the trust, ultimately the wording of the relevant clause was insufficient, with no reference made at all to the statutory framework.

As a result, while the Tribunal accepted that no 'foreign person' actually received distributions from the trust, and it was likely that no one else within the description of individuals ever actually would, the words in the amending deed did not satisfy the 'no foreign beneficiary requirement' and there was no sufficient incorporation of the definition of 'foreign person' to preclude the making of distributions to such persons.



Superannuation update

Revisions to Government's plan to tax high super balances

The Government has announced that it is making a number of practical changes to the design and implementation of its policy to better target superannuation concessions that proposes to apply an additional tax on earnings on individual total superannuation balances above AU\$3 million.

The key changes under the revised proposals include:

- An important shift to a realised-earnings approach for calculating the additional tax liabilities, rather than the original proposal which would have targeted unrealised gains
- The start date will move to 1 July 2026, allowing more time for consultation and smooth implementation
- The introduction of a second threshold at AU\$10 million, creating a two-tiered tax rate on earnings attributed to balances above AU\$3 million (at a total concessional tax rate of 30%) and above AU\$10 million (at a total concessional tax rate of 40%)
- Indexation of both balance thresholds (AU\$3 million and \$10 million).

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Further consultation will be undertaken with the superannuation industry and other relevant stakeholders on the best approach to:

- Calculate realised earnings and attribute to in-scope individuals
- Extend the existing exemption for some judges to improve consistency across jurisdictions; and
- Make additional changes necessary to ensure commensurate treatment is maintained for defined-benefit members.

The Government will also delay the start date of the reforms to 1 July 2026 to consult on final details and prepare legislation. This means, under these proposed changes, the first notices of assessment are expected to issue in the 2027–28 financial year.

Increase to low-income super support

The Government has also announced that it will increase the amount of low-income superannuation tax offset (LISTO). The LISTO is a government superannuation payment which offsets taxes paid on superannuation contributions by low-income earners.

From 1 July 2027, the LISTO maximum payment will increase from AU\$500 to AU\$810, while the LISTO eligibility threshold will increase from AU\$37,000 to AU\$45,000 to match the top of the second income tax bracket.

Draft practice statement on education directions where SISA contravened

The Australian Taxation Office (ATO) has released draft Practice Statement Law Administration PS LA 2025/D2, which provides guidance to ATO staff about whether to give a trustee or a director of a body corporate that is a trustee of a self-managed superannuation fund (SMSF) an education direction under section 160 of the Superannuation Industry (Supervision) Act 1993 (SISA). An education direction is a written notice the ATO gives to a person which, within a specified period, requires them to undertake an approved SMSF trustee education course, and to then provide to the ATO evidence that the course was completed.

An education direction can be given to:

- An individual trustee of an SMSF, where the ATO reasonably believe the trustee has contravened a provision of the SISA (other than Part 3B) or the SIS Regulations, or
- A director of a body corporate that is trustee of an SMSF, where the ATO reasonably believe that the director has contravened a provision of the SISA (other than Part 3B) or the SISR, or a body corporate, as trustee of the SMSF, has contravened a provision of the SISA (other than Part 3B) or the SIS Regulations.

The draft PS LA indicates that generally, an education direction will be an appropriate compliance tool where gaps in a person's trustee knowledge or understanding of those duties and obligations have contributed to the contraventions.

When finalised, it is proposed that the Practice Statement will apply from 2 October 2025. Comments closed 31 October 2025.



ATO's view on operation of NALI amendments

The ATO has issued an Addendum to Law Companion Ruling [LCR 2021/2](#), which deals with the non-arm's length income (NALI) rules that apply to a small complying super fund, to outline the ATO's view as to how the amendments to section 295-550 of the Income Tax Assessment Act 1997 operate in certain circumstances where the trustee of the fund incurs non-arm's length expenditure in gaining or producing ordinary or statutory income.

Separately, the ATO has also issued an Addendum to Taxation Ruling [TR 2010/1](#) to outline the ATO's view as to the interaction between the amended NALI provisions and the rules concerning superannuation contributions. The Ruling confirms that the Commissioner will no longer have a compliance approach for value shifting arrangements, i.e. where a contribution is made by way of value shifting to an asset owned by the super provider and the parties to the arrangement that are not dealing on an arm's length basis, that have occurred from 28 November 2024. Appendix 2 to the Ruling outlines the compliance approaches for value shifting arrangements entered into before that date.

Compassionate release of super

The ATO has released information about the [latest data for the compassionate release of super](#). Super can only be released on compassionate grounds if [all conditions for eligibility](#) as set out in the regulations are met which include, among other specifically listed reasons, that the taxpayer has no other means to pay the expenses. In relation to compassionate release of super for medical treatment, the law imposes further conditions including that the treatment must be necessary to:

- Treat a life-threatening illness or injury
- Alleviate acute or chronic pain
- Alleviate acute or chronic mental illness.

Two medical reports must be provided with the application that state that the treatment is necessary to treat or alleviate one of the conditions above, and that the treatment is not readily available in the public health system.

Warning over extracting super early for medical treatments

Further to the above item, the ATO and the Australian Health Practitioner Regulation Agency (Ahpra) have issued a [joint media release](#) to highlight and end inappropriate practices that seek to use superannuation to pay for overly expensive or unnecessary medical treatments. New data released by the ATO shows significant growth in applications for compassionate release of super, particularly for dental services, where the number of requests has more than doubled in two years. To be approved, the services need to be certified by two practitioners as necessary to alleviate acute or chronic pain or treat a life-threatening illness or injury or alleviate acute or chronic mental illness. Ahpra and the Dental and Medical Boards of Australia have accordingly released [new guidance](#) for doctors and dentists.

Payday Super update

On 9 October 2025, the legislation ([Treasury Laws Amendment \(Payday Superannuation\) Bill 2025](#) and the [Superannuation Guarantee Charge Amendment Bill 2025](#)) to implement Payday Super which reforms the superannuation guarantee framework to incentivise employers to make superannuation contributions for their employees at the same time as they pay the employee's qualifying-earnings was introduced into Parliament. Once legislated, the reforms will apply to superannuation guarantee contributions in respect of qualifying earnings days on or after 1 July 2026.

To further support the application of the new rules, the ATO has released draft Practical Compliance Guideline [PCG 2025/D5](#), which sets out the ATO's proposed compliance approach for the first year of operation of Payday super in respect of investigating a superannuation guarantee shortfall for a 'qualifying earnings' (QE) day that occurs from 1 July 2026 to 30 June 2027 inclusive.

For further information about the proposed Payday Super, refer to Employment Taxes Update.



Legislative update

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

- The Excise Tariff Amendment (Draught Beer) Bill 2025 and the Customs Tariff Amendment (Draught Beer) Bill 2025, which were both introduced into the House of Representatives on 8 October 2025, amend the Excise Tariff Act and the Customs Tariff Act, respectively, to pause the indexation of the excise duty rates and customs duty rates on draught beer for two years, with retrospective application from 1 August 2025.
- The Treasury Laws Amendment (Payday Superannuation) Bill 2025 and the Superannuation Guarantee Charge Amendment Bill 2025, which were both introduced into the House of Representatives on 9 October 2025, seek to implement the new Payday Super reforms to the superannuation guarantee framework to incentivise employers to make superannuation contributions for their employees at the same time as they pay the employees' qualifying earnings. Once legislated, the Bills will apply to superannuation guarantee contributions in respect of qualifying earnings days on or after 1 July 2026. Refer to the Employment Taxes section of this monthly Update for further details.

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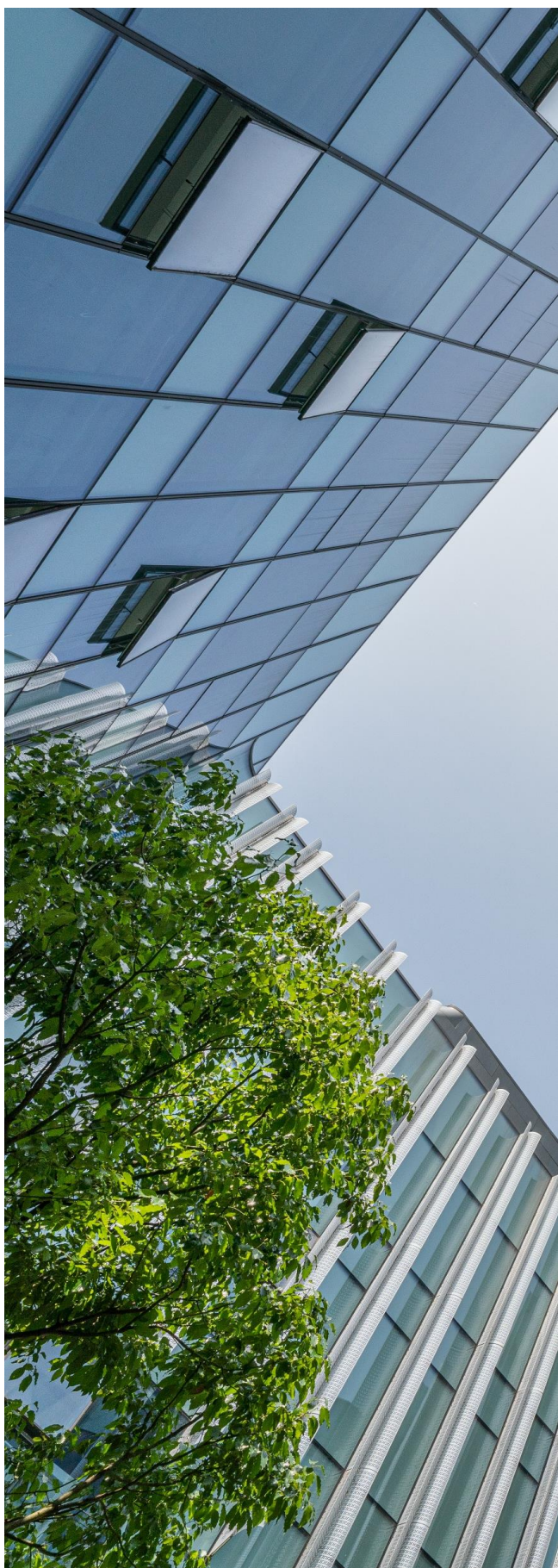
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Since our last update, no tax or superannuation related Bill has completed its passage through Parliament and received Royal Assent.

The following Commonwealth revenue measures were registered as legislative instruments since our last update:

- The GST-free Supply (Drugs and Medicinal Preparations) Determination 2025, effective 1 October 2025, extends the GST-free treatment that applies to supplies of small packs of analgesics containing aspirin, ibuprofen, and paracetamol.
- The A New Tax System (Australian Business Number Amendment (Display of Trading Names) Regulations 2025 allows the continued display of businesses' trading names, which are historic business registration identifiers, on the Australian Business Register from 1 November 2025.
- The A New Tax System (GST, Luxury Car Tax and Wine Tax) Directions 2025, applicable to tax periods commencing from 1 October 2025, replaces the 2015 Directions of the same name, which deals with the notional taxation of the Commonwealth and untaxable Commonwealth entities.
- The Customs (Approved Statements) Instrument 2025, effective 1 October 2025, replaces previous instruments governing approved statements for customs reporting and sets out approved statements for electronic reporting in relation to impending arrivals, arrivals, cargo reporters, crew, unloading personnel, outturns, movement applications, refunds, and export declarations.
- The Income Tax Assessment (1997 Act) Amendment (Term Subordinated Note) Regulations 2025, which ensures consistent tax treatment for financial instruments issued by foreign regulated entities and Australian Prudential Regulation Authority (APRA) regulated entities that are subject to non-viability conditions. The Regulations are applicable from 12 December 2012.

The last day on which both Houses of Federal Parliament will sit in 2025 is 27 November 2025.



Other news update

Board of Taxation review into red tape reduction

The Government has announced that it has tasked the Board of Taxation to identify ways to responsibly reduce unnecessary compliance burdens and red tape in the tax system.

As part of its terms of reference, the Board is requested to engage with the business community to identify areas of business tax law and administration where there are opportunities for red tape reduction that are substantial, material, measurable, and directly support productivity. Where such opportunities are identified:

- If involving administrative changes, the Board is to provide examples to the Australian Taxation Office (ATO) to support its red tape work; and
- If involving legislative changes, the Board is to provide recommendations to government for potential improvements.

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As part of the review, the Board will stocktake any tax-related compliance and red tape reduction recommendations from the Economic Reform Roundtable public submissions, as well as previous Board reviews and recent stakeholder engagement by the Board which discussed tax compliance burdens.

The Board will provide more information on how to be involved in consultations soon.

ATO's new three-tier model framework for risk

The ATO has released its new three-tier model for the public and multinational taxpayer market. The ATO will use this comprehensive model to understand and monitor taxpayer behaviours, to help it identify the main drivers of tax performance/non-performance, allowing it to focus on areas that may contribute to the tax gap or require further compliance attention.

Under the model, five Tier 1 topics are seen to be the major drivers of tax performance; Tier 2 are the visible events for Tier 1 behaviours; and Tier 3 are the specific focus areas for each Tier 2 event.

This three-tier model gives the ATO a holistic view of taxpayer behaviours and:

- Helps the ATO focus on strategies that will help manage key compliance risks for large corporate groups; and
- Supports the ATO to reach its goal of reducing the large corporate tax gap and understand whether public and multinational businesses are meeting their tax obligations.

The model also allows the ATO to provide transparency on where it is focusing its efforts to:

- Foster strong tax performance; and
- Prevent and address tax non-performance by public and multinational businesses.

Updated guidance on public benevolent institutions

The Australian Charities and Not-for-profits Commission (ACNC) has published an updated version of its Commissioner's Interpretation Statement (CIS) on Public Benevolent Institutions (PBIs). This follows extensive consultation with the charity sector, and legal and professional advisers.

The updated PBI CIS explains the ACNC's view of how a PBI is defined and how it applies that definition when it considers applications for charity registration with that charity subtype.

The updated CIS also takes into consideration the 2024 judgment of the Full Federal Court on Equality Australia's PBI status. In line with the Full Federal Court's decision, the PBI CIS makes clear that the ordinary meaning of PBI will continue to evolve over time, and that the Commissioner takes a contemporary approach and will consider contemporary ways organisations look to relieve benevolent needs. The updated CIS applies from 29 September 2025.

Income exemption for international organisations and connected persons

The ATO has finalised Taxation Ruling TR 2025/1, which considers the income of international organisations and persons connected with international organisations that is exempt income.

The Ruling considers when an international organisation is covered by the International Organisations (Privileges and Immunities) Act 1963 (IOPI Act) which is necessary for income to be made exempt by section 6-20 of the Income Tax Assessment Act 1997, and when a person is connected with an international organisation. The Ruling takes into account the decisions of the High Court in *Macoun v Commissioner of Taxation* [2015] HCA 44 and *Commissioner of Taxation v Jayasinghe* [2017] HCA 26. The Ruling applies both before and after its date of issue.

Transparency of beneficial owners of unlisted companies and trusts

The Government has announced that it will proceed to a public, Commonwealth-operated register of beneficial ownership information for unlisted companies. This is said to build on the current legislative proposal to enhance the disclosure of the ownership and control of entities listed on Australian financial markets, and to better increase transparency and support stronger regulatory and law enforcement responses to tax and financial crime facilitated by complex legal structures and arrangements. The Government will also continue work on developing a beneficial ownership regime in relation to trusts.

The Government plans to engage with stakeholders to further progress detailed policy development work on the beneficial ownership register from early 2027.

ATO focus areas for small businesses

The ATO has provided information regarding its current focus on small businesses with turnover between \$1 million and \$10 million. Namely, the ATO is detecting and addressing recurring errors in specific industries when businesses have turnover between these thresholds. Those industries include:

- Property and construction – including builders, contractors and tradies
- Professional, scientific and technical services – including engineering, design, IT and consulting professionals.



In these industries, the ATO has noted that it continues to see recurring issues, including:

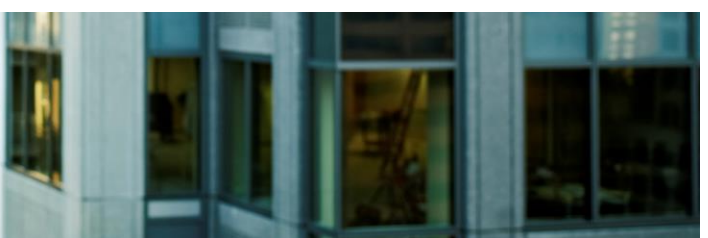
- Incorrect claims for the research and development tax incentive offset
- Omitted sales and income in BAS and tax returns, including income from related entities,
- Overclaimed expenses and GST credits
- Private expenses incorrectly reported as business-related, or not properly apportioned between business and personal use
- Failure to register for GST when required, and
- Not seeking independent advice from a registered tax agent, particularly in head, and contractor/ subcontractor arrangements.

The art of tax reform – consultation and summit outcome

Between July and August 2025, the New South Wales Government conducted a six-week public consultation to gather insights on tax reform from people and organisations across the creative ecosystem.

More than 80 ideas and over 300 submissions were received during the consultation process, with submissions received from artists and creative workers, arts and cultural organisations, and peak bodies from across Australia.

The NSW Government has since published the consultation report, which summarises all feedback. The report was used to inform discussions at the Art of Tax Reform Summit, which was held on 25 September 2025. As reported via ministerial statement, key ideas discussed at the summit were exempting arts prizes from taxable income, tax offsets for performance, greater incentives for philanthropic donations and extending incentives that exist in other sectors to the cultural sector.





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