



PwC's Monthly Tax Update

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

September 2023



Corporate Tax Update

Exposure draft law for amendments to Petroleum Resource Rent Tax

The Federal Treasury has released [exposure draft law](#) that proposes to partially implement the Petroleum Resource Rent Tax (PRRT) Government response to the Review of the PRRT Gas Transfer Pricing arrangements measure announced in the 2023–24 Federal Budget. Specifically, the draft proposes amendments to the PRRT to cap the availability of deductible expenditure incurred in relation to a petroleum project for a year of tax.

The deductions cap applies in relation to a petroleum project and a year of tax if:

- the person derives assessable receipts
- the person has no taxable profit
- sales gas is produced from the petroleum recovered from the project; and
- the person regularly or consistently enters into arrangements, as a result of which it is intended that the sales gas be wholly or primarily produced into liquefied natural gas (LNG).

A person or entity to whom the deductions cap applies will be taken to have a taxable profit of 10 per cent of their assessable receipts derived in relation to the project and the year of tax, with PRRT payable on this amount of deemed taxable profit. The taxpayer is then taken to have incurred an augmented denied deductible expenditure amount in relation to the project on the first day of the next financial year.

The amendments are proposed to apply in relation to assessable receipts derived in relation to a project (or a Greater Sunrise project) in relation to a year of tax beginning on or after 1 July 2023, whether or not assessable receipts were also derived in relation to the project and an earlier year of tax.

Instalment provisions, as they relate to the deductions cap, apply in relation to a petroleum project and in relation to a year of tax beginning on or after 1 July 2024 if a person expects to have a deemed taxable profit in relation to a project and financial year.

Comments can be made by 15 September 2023.

AASB no longer considering more disclosure of franking balances

The Australian Accounting Standards Board (AASB) has [decided](#) not to make any amendments to the existing franking credit disclosures in financial statements under [AASB 1054 Australian Additional Disclosures for Tier 1 for-profit entities](#). The Board considered feedback that indicated that the issues raised by stakeholders during the AASB's recent Agenda Consultation are not of such significance or prevalence to warrant amendment of the Standard.

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Employment Taxes Update

Payroll tax: Harmonised revenue ruling on medical centres in NSW and Victoria

[Revenue NSW](#) and the [Victorian State Revenue Office](#) have issued revenue rulings (*Revenue Ruling PTA 041 Payroll Tax Act – Relevant Contracts – Medical Centres*) which set out their views in relation to the application of payroll tax to medical centres.

More specifically, the purpose of the Revenue Rulings is to explain the application of the relevant contract provisions in the *Payroll Tax Act 2007* (NSW) and *Payroll Tax Act 2007* (VIC) to an entity that conducts a medical centre business, including dental clinics, physiotherapy practices, radiology centres and similar healthcare providers who contract with medical, dental and other health practitioners or their entities (“practitioners”) to provide patients with access to the services of practitioners.

The Rulings incorporate the decisions in *Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue* [2021] NSWCATAD 259 and the *Commissioner of State Revenue (Vic) v The Optical Superstore Pty Ltd* [2019] VSCA 197, which considered the application of the relevant contractor provisions in the context of arrangements between medical and optometry centres and practitioners.

The Revenue Rulings are harmonised with materially consistent rulings issued recently in South Australia and Queensland.

Payroll tax: Pause on payroll tax audits for medical centres in NSW

The [NSW Government](#) announced on 24 August 2023 a pause on payroll tax audits for GPs for 12 months to allow for ongoing consultation with the Royal Australian College of General Practitioners and Australian Medical Association. This will include a 12-month pause on tax penalties and interest accrued on outstanding payroll tax debts incurred before and at the commencement of the 12-month period. This change has

Been implemented through an amendment to the [Revenue, Fines and Other Legislation Amendment Bill 2023 \(NSW\)](#), which is now awaiting Assent.

Payroll tax: Amnesty on medical centres in SA

RevenueSA has announced an amnesty in relation to the requirement for taxpayers to pay South Australian (SA) payroll tax on payments made by a medical practice to general practitioners under the ‘relevant contract’ provisions.

[Information Circular 106 Payroll Tax Amnesty for Medical Practices](#) outlines the parameters of the amnesty. Medical practices that qualify for the amnesty will not pay payroll tax on payments to contracted practitioners during the amnesty period, which covers payments made from the 2018–19 financial year to the 2023–24 financial year. This means that medical practices that receive the benefit of the amnesty would commence paying payroll tax on payments made to contracted general practitioners from 1 July 2024, where an exemption to the relevant contract provisions does not apply.

This follows a similar amnesty announced by the Queensland Revenue Office earlier in the year.

Payroll tax: NSW to provide grouping provisions for phoenix arrangements

The [Revenue, Fines and Other Legislation Amendment Bill 2023](#) (NSW) proposes to amend, among other things, the *Payroll Tax Act 2007* (NSW) (refer to State Taxes for discussion on other measures). The amendments to the *Payroll Tax Act 2007* (NSW) will, among other things, provide that an entity (the successor) and a former entity, including a corporation that is in administration, being wound up or deregistered constitute a group if the successor, often known as a phoenix operator or corporation, and the entity are or were sufficiently influenced by the same third party. The amendments will enable payroll tax to be recovered from these groups.

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Fringe Benefits Tax: FIFO workers fail “otherwise deductible” test judgement appealed

The taxpayer has appealed to the Full Federal Court against the first instance decision in [Bechtel Australia Pty Ltd v FC of T \[2023\] FCA 676](#) in which it was held that travel expenses in relation to “Fly In Fly Out” employees were not “otherwise deductible” for purposes of that test in the *Fringe Benefits Tax Assessment Act 1986 (Cth)*.

Refer to our [Tax Alert](#) for our complete analysis on the appealed judgement.

Superannuation guarantee compliance: ATO's key focus in 2023–24

On 27 July 2023, the Australian Taxation Office (ATO) released its [2023–24 Corporate Plan](#). As anticipated, ‘Superannuation Guarantee integrity’ was identified as one of the regulator’s eight ‘key focus areas’ for the financial year, with the core objective being to ‘(c)ontinue to expand our use of data to improve superannuation guarantee (SG) compliance’.

This focus on SG compliance, through data-analysis, may not be a surprise – the Federal Government’s 2023–24 Budget specifically allocated \$27 million to the ATO ‘to improve data matching capabilities to identify and act on cases of SG underpayment by employers’ (see our [Tax Alert](#) for more insight).

The corollary to this data-led investment is debt-recovery of shortfalls. Specifically, another ‘key focus area’ for 2023–24 is to ‘address collectable debt’ – this is reflected in the ATO’s performance targets, which include a measure for SG Charges distributed within 12 months of being raised.

Workers' Compensation: New law to modernise workers' compensation in WA

A Bill proposing to modernise Western Australian (WA) workers’ compensation laws has been introduced into the WA Parliament. The [Workers Compensation And Injury Management Bill 2023](#) proposes to update the ‘complex, unwieldy’ *Workers’ Compensation and Injury Management Act 1981*, following an extensive review and consultation process, and will involve in a complete rewrite of the current legislation.



Global Tax and Trade Update

ATO consulting on Pillar 2 implementation impacts

Although we are yet to see legislation for Australia's proposed Pillar Two of the Organisation for Economic Co-operation and Development (OECD)/G20 Two-Pillar Solution to address the tax challenges arising from digitalisation of the economy, the Australian Taxation Office (ATO) has commenced [targeted public consultation](#) with likely affected multinationals on the implementation of the global minimum tax and a domestic minimum tax. Consultation will focus on potential administration issues, compliance and systems impacts. The ATO also proposes further communication and support materials will be provided leading up to 1 January 2024 which is the earliest date that Australia's proposed Income Inclusion Rule and domestic minimum tax can apply.

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Indirect Tax Update

Proposed technical amendments

The Treasury has released [draft legislation](#) which proposes a number of miscellaneous and technical amendments to Treasury portfolio legislation. From a tax perspective, the proposed amendments seek to change the income tax and goods and services tax (GST) law in respect of the following:

- *Attribution of input tax credits to tax periods* – Amendments will ensure the provisions operate as intended such that input tax credits are attributable to appropriate tax periods. Under the proposed law if an input tax credit that is attributable to a tax period is not taken into account in a taxpayer's assessment for that period, the taxpayer may elect for the input tax credit to instead be attributable to a later specified tax period. The election must be made in the approved form and cannot be amended or revoked. Further amendments will also ensure that time limits apply to entitlements to input tax credits in relation to certain determinations made by the Commissioner. The amendments will apply retrospectively, with suitable transitional measures, in relation to input tax credits that are ordinarily attributable to tax periods that start on or after 1 July 2012. The retrospective application helps ensure the legislation conforms with past practice.
- *Income tax deduction for GST paid by reverse charge* – The proposed legislation makes amendments to the income tax law to clarify that a deduction is available for GST payable by way of reverse charge to the extent that:
 - the GST exceeds the input tax credit (if any) to which the taxpayer is entitled for a creditable acquisition that relates to the supply, and
 - the requirements of the general deductions provision of the income tax law are satisfied.

Consultation closed on 23 August 2023.

Luxury car tax: Cars in a museum

In [Automotive Invest Pty Ltd v FC of T \[2023\] FCAFC 129](#), the majority of the Full Federal Court found (Logan J dissenting) that luxury cars held in a car museum were not held solely for the purposes of sale as trading stock, and as such luxury car tax (LCT) adjustments on the appreciation of the vehicles was applicable.

Many of the cars exhibited in the museum were also for sale and the taxpayer received more revenue from sales than from museum admission fees. The taxpayer had quoted its Australian Business Number at the time of importation of the cars on the basis that the cars were to be held as trading stock and for "no other purpose".

The majority of the Full Federal Court did not accept the appellant's construction of the law as requiring the "other purpose" to be exclusive or alternative to the purpose of holding the cars as trading stock. It said that the question is whether the use of each of the cars as part of such a display was an incident of holding that car as trading stock, such that its display was part of its use as trading stock and was part of a singular purpose. This is therefore a question of fact and degree. In this regard, the Court rejected the taxpayer's appeal noting that objective consideration of the totality of the facts, and the operation of the museum and marketing indicated that the cars were held as more than just trading stock. The existence of the facilities in conjunction with the charging of a non-token entrance fee, the engagement of employed and volunteer staff to provide guidance and information to visitors, and the marketing of the exhibited collection of cars as a tourist or visitor destination is not consistent with a conclusion that the cars were used for the purpose of being held as trading stock and for no other purpose.

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Luxury car tax and how to determine the principal purpose of a vehicle

The Australian Taxation Office has issued final luxury Car Tax Determination [LCTD 2023/1](#) which explains how to determine the principal purpose of a car for the purposes of the *A New Tax System (Luxury Car Tax) Act 1999 (Cth)*. The term 'principal purpose' is relevant in determining whether a car is a 'luxury car' on which LCT may be payable, ie LCT is not payable on the supply or importation of cars whose principal purpose is the carriage of goods rather than passengers. The Appendix to the Determination also sets out a compliance approach which outlines how the Commissioner of Taxation will allocate compliance resources with respect to this issue.

Under the law, a car is excluded from being a luxury car if it is a commercial vehicle, and not designed for the principal purpose of carrying passengers. In this respect, the Determination indicates that the question of whether or not a car has the 'principal purpose' of carrying passengers must be considered objectively and that the focus is on the design of the car, rather than how it is intended to be used in practice by any particular operator. The Determination considers the following in more detail:

- factors to consider in determining the principal purpose of all vehicles, including utility vehicles, and
- design modifications that may alter a vehicle's purpose.

The Commissioner accepts that commercial vehicles that have a body type as either a truck or cargo or delivery van, and where these vehicles are supplied for an amount above the LCT threshold, the supply of these vehicles without LCT being paid will be treated as low-risk arrangements to which the ATO will not apply compliance resources. However, vehicles such as station wagons, off-road passenger wagons, passenger sedans, people movers or sports utility vehicles are supplied for an amount above the LCT threshold, the supply of these vehicles without LCT being paid will be treated as high-risk arrangements to which the ATO will apply compliance resources.

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



Personal Tax Update

Bonus payment assessable when received

In [Tawfik and Commissioner of Taxation \(Taxation\) \[2023\] AATA 2541](#) the Administrative Appeals Tribunal (AAT) has found that a taxpayer's bonus payment was assessable income at the time that it was paid, despite the fact that the bonus was 'earned' at an earlier date, when the taxpayer was not an Australian resident.

The taxpayer was employed in Kuwait when he earned the bonus at which time he was not an Australian resident. However, the employer was not able to pay the bonus until a later date where the taxpayer was an Australian resident.

The taxpayer was unsuccessful in claiming that the payments should be brought to account on an accruals basis. This was on the basis that case law has established principles that has led to employee remuneration, and other income which is in substance a reward for professional skill or personal work, being treated as derived upon receipt.

Clarification in ATO's Practical Compliance Guideline on working from home deductions

The ATO's Practical Compliance Guideline [PCG 2023/1](#) which provides guidance on the calculator of a deduction for expenses incurred as a result of working from home has been updated to clarify the availability of the fixed rate method in circumstances where some, but not all, additional work from home expenses have been paid or reimbursed by the employer.

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State Tax Update

Stamp duty and land tax maps

PwC's [Australian Stamp Duty and Land Tax Maps](#) provide an overview of the current stamp duty and land tax rates for each State and Territory of Australia as at 1 August 2023.

WA: Amendments to the Duties Act

The [Duties Amendment \(Off-the-Plan Concession and Foreign Persons Exemptions\) Bill 2023](#), which was introduced to the Western Australia (WA) Parliament on 9 August 2023, proposes amendments to the *Duties Act 2008 (WA)* to implement the off-the-plan duty concessions that were announced in the 2023–24 WA State Budget. The Bill also proposes to expand the circumstances in which a refund of foreign buyers duty is available for residential developments.

Off-the-plan duty concessions

Under the amendments, a 100 per cent duty concession (capped at \$50,000) will apply to properties valued up to \$650,000 (formerly \$500,000); phasing down to a 50 per cent duty concession (capped at \$50,000) for properties valued at more than \$750,000 (formerly \$600,000). The duty concession applies to off-the-plan agreements that are:

- for the purchase of a lot in a multi-tiered scheme on which there will be a new residential unit or apartment
- entered into before development for the scheme commences; and
- entered into during the period beginning on 23 October 2019 and ending on 30 June 2025.

Eligible off-the-plan agreements will receive an upfront concession on the duty payable instead of a rebate paid after settlement.

Foreign buyers duty exemptions

Under the proposed legislation, a foreign person can apply for a refund of the foreign buyers duty applicable to purchases of residential property if ten or more dwellings are constructed or refurbished on the land, or the land is subdivided for the purpose of constructing ten or more dwellings, within five years after the land is purchased.

The amendments will apply retrospectively from 1 January 2023.

NSW: Miscellaneous revenue amendments

The [Revenue, Fines and Other Legislation Amendment Bill 2023 \(NSW\)](#), which was introduced into the New South Wales (NSW) Parliament on 1 August 2023, proposes to amend a number of NSW Acts as part of an ongoing program of maintaining the integrity and effectiveness of the revenue legislation. From a taxation perspective, the amendments are to the *Duties Act 1997*, *Land Tax Management Act 1956*, *Payroll Tax Act 2007*, *Property Tax (First Home Buyer Choice) Act 2022* and *Taxation Administration Act 1996*. The following is a general summary of the key amendments.

Stamp duty

- provide that if, as a result of the division of a corporation (the dividing corporation), a new corporation holds land previously held by the dividing corporation, the land is taken to have vested in the new corporation by statute law and is a dutiable transaction
- provide that a wholly owned sub-trust of a managed investment scheme (MIS) includes a sub-trust that is jointly owned by the MIS and another wholly owned sub-trust of the MIS. The amendment also applies transfer concessions to particular transfers consequent on the deregistration of MISs

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- extend the duty concession for property vested in an apparent or real purchaser of dutiable property to the legal personal representative of an apparent or real purchaser
- clarify the operation of the concessional duty provisions that apply to a person who is consolidating or transferring the person's superannuation
- provide that duty is not chargeable on a transfer of property to a registered native title body corporate if the transfer is in accordance with an indigenous land use agreement, and
- make a number of minor duty amendments.

Land tax

- remove a redundant land tax concession for rural land that has been rezoned for subdivision for residential or commercial use but is continuing to be used for rural business
- remove a requirement that land used solely for a school must also be owned by the entity that operates the school in order to be exempt from land tax

Payroll tax

- enable payroll tax to be recovered from phoenix arrangements by extending the grouping rules

Administrative

- enable the promoter penalty provisions to be applied to promoters of phoenix activity, including the imposition of civil penalties and injunctions, as well as the making of voluntary undertakings
- impose penalties for breaches of confidential tax information
- increase penalties for offences that hinder compliance activities
- reform the time limits for out-of-time objections and reassessments
- permit certain information sharing by Revenue NSW to Service NSW and New South Wales Treasury
- make administrative improvements for valuations, refunds and payments

Queensland: Duties Regulations remade

The *Duties Regulation 2013 (QLD)* will automatically expire on 1 September 2023. Accordingly, the Queensland (QLD) government has remade the regulation as the [Duties Regulation 2023](#) which are necessary and appropriate for the proper operation and administration of the *Duties Act 2001 (QLD)*.

Some minor changes have been made to ensure it remains current. Changes include not remaking provisions which prescribe specific commencement dates for certain provisions relating to recognised stock exchanges and declared public unit trusts, and updating the definition of 'federal interstate motor vehicle'.

Victoria: Revenue Ruling dealing with out of time objections

The Commissioner of the State Revenue Office of Victoria has released an updated [Revenue Ruling](#), which considers the time frame in which an out of time objection must be lodged.

The Ruling explains how the Commissioner applies section 100 of the *Taxation Administration Act 1997 (Vic)* which allows the Commissioner to permit a person to lodge an objection after the stipulated 60-day period. This includes the process by which a taxpayer may make an application under section 100 and the factors which the Commissioner will generally consider to be relevant in deciding whether or not to grant permission under that section.

ACT: Acquisition statement for landholder duty

The [Duties Regulation 2023 \(ACT\)](#) requires that for purposes of landholder duty in the Australian Capital Territory (ACT) a person is not required to prepare an acquisition statement if the rate of duty for the relevant acquisition is nil. The explanatory statement provides examples. The regulation is effective 1 October 2023.

SA: Redemption of units found to be a dutiable transaction

The majority of the Supreme Court of South Australia Court of Appeal has dismissed the taxpayer's appeal in [Edge Developments Pty Ltd & Ors v Commissioner of State Taxation \[2023\] SASCA 88](#) finding that the redemption of units in a unit trust constituted a dutiable transaction on the basis that the redemption resulted in certain unitholders increasing their prescribed interest in the unit trust which was held to be a land holding entity at the relevant time.

NSW: Land tax principal place of residence did not apply

The NSW Civil and Administrative Tribunal found in [FSX v Chief Commissioner of State Revenue \[2023\] NSWCATAD 219](#) that land tax was correctly applied and that the principal place of residence exemption could not apply to the relevant property.



The taxpayer held a parcel of land that was subject to an existing development consent for 'demolition of existing buildings and construction of a new three to four storey building shop top housing development'. In accordance with the development consent, while living elsewhere, the taxpayer has been building a four-storey residence on the land, with spaces on the ground floor separately designated either for commercial use or residential use, or both residential and commercial use.

Although the Tribunal was satisfied that at all relevant times, including, as at the taxing dates for the 2021 and 2022 tax years, the taxpayer intended to use and occupy the land solely as her principal place of residence and to leave the commercially designated areas vacant until such time, if ever, that its use for residential purposes became lawful, that amounted to an unlawful use. As such the principal place of residence exemption could not apply.



Superannuation Update

Non-arm's length income provisions not applicable to related party loan arrangements

In [BPFN and Commissioner of Taxation \(Taxation\) \[2023\] AATA 2330](#) the Administrative Appeals Tribunal (AAT) has upheld the taxpayer's appeal with respect to amended assessments that were issued on the basis that the non-arm's length income (NALI) provisions applied.

The taxpayer was a corporate trustee of a self-managed superannuation fund (SMSF) that derived income as the beneficiary of a unit trust. Through a series of loan agreements, the unit trust lent money through two related parties who ultimately loaned to independent third parties. The Commissioner issued amended assessments on the basis that the income was NALI and therefore should not be treated as exempt current pension income of the fund.

The AAT analysed the arrangements between the entities and concluded that although the entities were not dealing with one another at arm's length, it was satisfied the scheme established under the private lending facility did not result in income that would be different from that which might be expected to have operated between independent parties dealing independently with one another in the private lending market at the time. Accordingly, the relevant interest income received by the taxpayer was not NALI.

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Legislative Update

Federal Parliament commenced the Spring sittings on 31 July 2023. No tax or superannuation related Bills have been introduced or completed their passage since our last edition of the Monthly Tax Update.

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Other News Update

Draft determinations on reporting exemptions for certain EDP operators

The Australian Taxation Office (ATO) has issued the following draft legislative instruments in relation to the new Sharing Economy Reporting Regime which applies to certain operators of an electronic distribution platform (EDP) for the supply of accommodation and taxi travel:

- LI 2023/D15** – exempts the operator of an EDP from having to prepare and give a report about reportable transactions for a reporting period ending on or before 30 June 2024 if certain conditions are met including that the platform was operating on or before 30 June 2023 and had reportable transactions of less than either \$1,000,000 in the 12 months ending on the last day of the reporting period. The Instrument also proposes to extend the due date for the reporting periods ending on 31 December 2023 and 30 June 2024 for those operators that could, but choose not to, rely on the exemption such that for the reporting period ending on 31 December 2023, the extended deadline to give the report to the Commissioner is 29 February 2024, and for the reporting period ending on 30 June 2024, the extended deadline to give the report to the Commissioner is 2 September 2024.
- LI 2023/D16** – proposes to exempt the operator of an EDP from having to report transactions involving a relevant supply where the supplier is either a 'listed entity' or a wholly-owned subsidiary of a listed entity, or in circumstances where a supply is made through more than one EDP. The proposed instrument will also exempt the operator of an EDP from having to report transactions that involve the provision of consideration relating to a 'substantial property' (ie property in relation to which, for that reporting period, at least 2,000 transactions were facilitated by the EDP for the property in the 12 months ending on the last day of the reporting period).

The closing date for comments is 12 September 2023.

Register of Foreign Ownership of Australian Assets

The new [Register of Foreign Ownership of Australian Assets](#) commenced on 1 July 2023. The Register replaces existing foreign investment registers managed by the ATO (relating to agricultural and residential land, and water interests) and expands on the types of assets that are required to be registered. Under the expanded regime, foreign persons must notify the Registrar within 30 days of the registrable event day when they acquire (amongst other things):

- interests in Australian land including agriculture land, residential land, commercial land, and mining/production tenements, and
- interests in an Australian entity or business (or when they start an Australian business).

One-off government payment was not ordinary income

In [Bains and Commissioner of Taxation \(Taxation\) \[2023\] AATA 2477](#) the Administrative Appeals Tribunal (AAT) has held that a one-off payment from the Victorian Government was not ordinary income and rather was a discretionary payment to relieve the taxpayer of financial hardship.

In response to the significant changes and reforms to the Victorian tax industry the Victorian Government provided financial relief to taxi licence holders. This included through the Victorian Tax Reform Hardship Fund and as Transition Assistance Payments, these were payments designed to provide relief against these reforms.

The taxpayer had held a taxi licence and was provided payments from these initiatives.

Let's talk

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

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The AAT found that the payment represented a 'discretionary payment paid as a matter of public policy for the relief of unfair financial hardship, rather than a product of [the taxpayers] remaining tax business, such as it was at the time, or as a substitute for or estimate of income forgone'.

No PBI status

In [Equality Australia Ltd v Commissioner of Australian Charities and Not-for-profits Commission \[2023\] AATA 2161](#), a majority of the AAT held that Equality Australia Ltd was not entitled to be registered as a "public benevolent institution" (PBI).

The entity is an organisation that seeks to reshape the social, policy and legislative environment for LGBTQI+ people in ways that promote their acceptance, inclusion and human rights. It sought to be registered as a PBI in order to achieve deductible gift recipient (DGR) status for income tax purposes.

The majority was satisfied that the evidence when viewed as a whole confirmed the organisation was focused on advocacy in furtherance of its goal of changing laws and social practices that were injurious to LGBTQI+ persons. However, it was not satisfied it routinely provides support directly to individuals or groups beyond providing referrals, information exchanges and opportunities for connection except where that support was incidental to other activities that were directed to achievement of its primary mission.

The AAT indicated that there must be a sufficiency of connection between the organisation's activities and the benevolent ends it pursues. In this respect, the majority considered after considering the evidence that the organisation had not established that, during the relevant period, there was a sufficiency of connection that justified a finding it was entitled to be registered as a charity with the subtype PBI. The Tribunal also noted that on the face of the evidence, it remained eligible to be registered as a charity with the purpose of 'advancing public debate' and may become eligible to be registered as a public benevolent institution in subsequent years once its other planned activities develop.

Inspector-General provides recommendations to improve the operation of the Small Business Litigation Funding Program

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) has issued a [report](#) that shares insights, observations and recommendations to improve the ATO's administration of the Small Business Litigation Funding Program, which arose during IGTO investigations of unresolved complaints (disputes) that were lodged by small businesses and legal practitioners.

The IGTO has made four recommendations to improve the administration of the Program. The main recommendation is for the ATO to more clearly communicate how it will administer the Program, including how it will do so in accordance with the original policy intent of the Program. This also includes incorporating the ATO's adherence to the funding agreement as a term in the legally binding agreement, more clearly defining the costs that the ATO will reimburse, more clearly explaining how reimbursements will be calculated and specifying the details on the supporting documentation that litigants will be required to provide the ATO in support of their claims.

The IGTO has also made recommendations for the ATO to consult with the small business community, legal profession and Australian Small Business and Family Enterprise Ombudsman to ensure that they have a common understanding of the ATO's material and, if not, for the ATO to amend the material to achieve that understanding. Recommendations were also made to establish a process to deal with confidential and prejudicial information and to consider whether additional measures were needed to preserve the integrity of the Program.



Editorial

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

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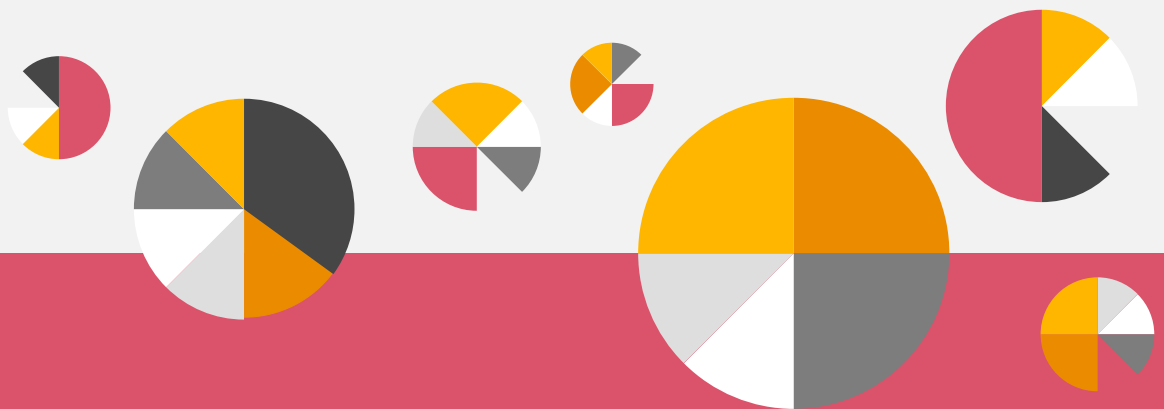
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WLTD0601900