

March 2017

TaxTalk Monthly

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



Corporate Tax Update

ATO's ruling and practical compliance guideline on exploration expenditure deductions

The Australian Taxation Office (ATO) has released Taxation Ruling [TR 2017/1](#), which deals with deductions under section 8-1 and subsection 40-730(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) for expenditure on mining and petroleum exploration, including prospecting, as defined in subsection 40-730(4). Some of the key points from the ruling include:

- Division 40 is not a code for deductions for exploration expenditure
- The mere point in time at which expenditure is incurred does not determine its character or nature for the purposes of section 8-1 or subsection 40-730(1) of the ITAA 1997
- There is no presumption that exploration expenditure is capital, or capital in nature.

The Ruling replaces previously withdrawn Taxation Ruling TR 98/23 Income tax: mining exploration and prospecting expenditure.

In addition, the ATO released Practical Compliance Guideline [PCG 2016/17](#), detailing the ATO's compliance approach to exploration expenditure deductions. The PCG sets out how the ATO will administer the law and the Ruling to assure deductions claimed for 'exploration expenditure' by setting out the three focus areas:

- assessing the quality of governance policies for projects and tax characterisation decisions,
- substantiation of exploration expenditure claims and identifying, and
- expenditure viewed as high risk by the ATO.

The PCG also sets out the factors that the ATO will consider when assessing the risk of non-compliance and therefore, how likely the ATO will review exploration expenditure claims.

Early warning for taxpayers making R&D claims

The ATO and Department of Industry, Innovation and Science released four [Taxpayer Alerts](#) as a warning to those seeking to make claims under the Research & Development (R&D) Tax Incentive program by clarifying what can and cannot be

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

In addition, Innovation Australia updated its sector guides for [Agrifood](#), [Biotechnology](#), [Built Environment](#), [Energy](#), [ICT](#) and [Manufacturing](#), which are designed to enable companies to correctly self-assess and register eligible R&D.

ATO's draft of Privatisation and Infrastructure Framework Document

The ATO has issued its latest draft document dealing with the taxation of income from privatisations and infrastructure activity. This document covers a range of issues including:

- privatisation of government businesses into stapled structures
- customer cash contributions/reimbursements
- government grants and gifted assets
- capitalised labour, and
- areas of ATO focus, including fracturing of control interests and satisfaction of Managed Investment Trust requirements.

The ATO is seeking comments on the draft document by 28 April 2017. Refer to our [Taxtalk Alert](#) for further information.

Tax risk management and governance

The ATO released an update to its [Tax risk management and governance review guide](#), which was prepared to help taxpayers develop and test governance and internal control frameworks (as they relate to tax), and demonstrate the effectiveness of internal controls to reviewers and stakeholders. The guide sets out principles for company board-level and managerial-level responsibilities, and includes self-assessment procedures for reviewers.

It is clear that the ATO intends a significantly more evidence and enterprise-based risk management focus on tax governance and is seeking, through the new guidance it has provided for directors, to leverage Boards to increase their attention in this area. Refer to [TaxTalkInsights](#) for further information.

ATO's administrative treatment of proposed company tax rate changes

The ATO [released its administrative treatment](#) in relation to the Government's proposal ([Treasury Laws Amendment \(Enterprise Tax Plan\) Bill 2016](#), currently before Parliament) to reduce the corporate tax rate. Under these proposals, the tax rate for small business entities will be reduced from 28.5 per cent to 27.5 per cent from 1 July 2016. The ATO indicated that until the new law passes, it will continue to process small business tax returns at the 28.5 per cent rate, and use the 28.5 per cent rate in PAYG instalment calculations. If the new law is enacted, it will contact affected taxpayers and amend their returns, and pay interest on overpayments of tax.

High Court dismisses special leave to appeal in royalty case

The High Court [refused](#) the Commissioner's application for special leave to appeal against the Full Federal Court decision in [Commissioner of Taxation v Seven Network Limited](#). In the earlier decision, the Full Federal Court dismissed the Commissioner's appeal against the decision of the single judge in the Federal Court who held that amounts paid to the International Olympic Committee for use of international television signals to broadcast the Olympic Games did not constitute a 'royalty' for purposes of Article 12(3) of the Australia-Switzerland double tax and accordingly was not subject to Australian withholding tax.

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Employment Taxes Update

New payroll tax de-grouping decision (NSW)

In *Urmor Pty Ltd ATF Ross Burton Family Trust v Chief Commissioner of State Revenue [2017] NSWCATAD 54*, the New South Wales (NSW) Civil and Administrative Tribunal confirmed the earlier decision of the Chief Commissioner not to de-group Urmor Pty Ltd ATF Ross Burton Family Trust from any other entity it had been grouped with under the grouping provisions of the *Pay-roll Tax Act 1971 (NSW)* and *Payroll Tax Act 2007 (NSW)*. The Tribunal also found that the garnishee notice issued by the Chief Commissioner to the taxpayer's bank in respect of the direct recovery of outstanding payroll tax liabilities was neither void nor invalid.

The Tribunal's decision in relation to de-grouping was on the basis that the applicant's income was

derived almost solely from other group members, the existence of loans between group members, decision-making by a common individual across a number of entities within the group, sharing of resources by group members, and the use of the same accountancy firm by members of the group. In weighing up the relevant factors, the Tribunal was not satisfied that the Applicant carried on a business independently of, and not connected with, the carrying on of a business by other members of the payroll tax group.

New bill in relation to the 'Backpacker Tax' (Cth)

The Federal Government introduced the *Treasury Laws Amendment (Working Holiday Maker Employer Register) Bill 2017*. This bill proposes to give effect to the Government's commitment that

the information collected by the Commissioner concerning the registration of employers of working holiday makers will not be made publicly available and the Commissioner will only be able to disclose protected information to the Fair Work Ombudsman for an entity that is actually or is reasonably suspected of non-compliance with a taxation law.

Super guarantee non-compliance working group (Cth)

The Minister for Revenue and Financial Services announced the establishment of a new multi-agency working group to investigate and develop practical recommendations to deal with superannuation guarantee non-compliance.

The working group was due to provide an interim report to the Minister at the end of February 2017, with a final report due in March 2017.

Increase to the value of penalty units (Cth)

The *Crimes Amendment (Penalty Unit) Bill 2017* was introduced, which proposes to increase the Commonwealth penalty unit from \$180 to \$210 from 1 July 2017, and delays the first automatic adjustment of the penalty unit to the Consumer Price Index (CPI) until 1 July 2020, with indexation to occur on 1 July every three years thereafter.

If enacted as drafted, the Bill will impact a number of Federal penalties, including penalties for failing to lodge FBT returns, and penalties for failing to meet other employment taxes obligations.

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Global Tax Update

Latest news from international tax and transfer pricing

Practical Compliance Guideline issued on Simplified Transfer Pricing Record Keeping Options

The ATO published Practical Compliance Guideline (PCG) [PGG 2017/2](#) on Simplified Transfer Pricing Record Keeping Options for eligible taxpayers that are required to document and record their transfer pricing obligations in accordance with subdivision 284 E of Schedule 1 to the *Taxation Administration Act 1953*. The PCG provides various simplified transfer pricing record keeping options to reflect the types of transactions or activities the ATO believes

are low risk in the context of international related party dealings. The PCG also specifies the criteria for taxpayers to self-assess their eligibility to use one or more of the eight simplification options.

ATO to issue Diverted Profits Tax guidance

The ATO has [indicated](#) that it is developing a Law Companion Guideline to provide guidance on some of the new concepts in the Diverted Profits Tax (DPT). In addition, the ATO is developing guidance on the framework that will be established on the administration of the DPT.

OECD and BEPS developments

The Organisation of Economic Co-operation and Development (OECD) [released](#) key documents, approved by the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which will form the basis of the peer review of Action 13 Country-by-Country (CbC) Reporting and for the peer review of the Action 5 transparency framework. For further information and additional analysis, refer to this [Tax Policy Bulletin](#). Stakeholders are also [invited to provide input on peer reviews](#) of Dispute Resolution (BEPS Action 14) for the Stage 1 peer reviews of Austria, France, Germany, Italy, Liechtenstein, Luxembourg and Sweden.

In other developments:

- The OECD Platform for Collaboration on Tax released a [draft toolkit](#) to help developing countries address the lack of comparables for transfer pricing analyses. The toolkit is part of a series of reports by the Platform to help countries that may have limitations in their capacity to design or administer strong tax systems.
- Her Majesty's Revenue and Customs (HMRC) published guidance on transfer pricing aspects of cash pooling arrangements. Refer to [Tax Insights](#) for further information.
- Key changes are anticipated in transfer pricing administration in China. Refer to [Tax Insights](#) for further information.
- The Inland Revenue Authority of Singapore released updated Transfer Pricing Guidelines which incorporate BEPS Actions developments. Refer to [Tax Insights](#) for further information.
- Panama introduced changes to transfer pricing legislation. Refer to [Tax Insights](#) for further information.
- Brazilian Federal Revenue Office issues final regulations on CbC reporting. Refer to [Tax Insights](#) for further information.
- Gabon, Hungary, Indonesia, Lithuania, Malta, Mauritius and the Russian Federation have [signed](#) the Multilateral Competent Authority Agreement for CbC Reporting (BEPS Action 13) to enable automatic sharing of information. This brings the total number of signatories to 57.
- Kazakhstan, Côte d'Ivoire and Bermuda have [joined](#) the [Inclusive Framework on BEPS](#). [Over 1300 relationships](#) are now in place to automatically exchange information between tax authorities, pursuant to the [OECD Common Reporting Standard](#).

- Thailand [joined](#) the Global Forum on Transparency and Exchange of Information for Tax Purposes as its 139th member.

Tax administrations have also [shared their findings and developed actions on 'Panama Papers'](#) at a meeting held in Paris on 16 and 17 January 2017. The meeting included the largest ever simultaneous exchange of information, based on legal instruments under the OECD and Council of Europe Multilateral Convention and tax treaties.

Luxembourg implements OECD CbC reporting obligations and issues new TP circular for the fiscal treatment of intra-group financial transactions

The Luxembourg Parliament passed legislation implementing CbC reporting requirements for Luxembourg entities that are part of a Multinational Enterprise Group (MNE). The new CbC reporting legislation transposes into Luxembourg law part of the three-tiered standardised approach to transfer pricing documentation introduced in Action 13 of the OECD/G20 BEPS project. The Luxembourg CbC obligations require Luxembourg ultimate parent entities controlling an MNE group whose total consolidated group revenue exceeds EUR 750 million to file CbC reports with the Luxembourg tax authorities. Other companies that are members of MNE groups also may have obligations to file CbC reports in Luxembourg. Both Luxembourg MNE group parents and other Luxembourg companies that are members of MNE groups also must comply with notification requirements that have deadlines that are potentially imminent. Refer to [Tax Insights](#) for further information.

Luxembourg Tax Authorities have also issued a new circular providing guidance for the fiscal treatment of intra-group financial transactions. Effective from 1 January 2017, the Circular follows the application of the arm's-length principle of the OECD Transfer Pricing Guidelines. All existing transfer pricing rulings are no longer valid from the Circular's date of effect. For further information, refer to [Tax Insights](#).

Switzerland rejects Corporate Tax Reform in public vote

Swiss voters have rejected the Corporate Tax Reform III, which would have abolished current existing tax regimes, such as the rules for holding or mixed companies. The reform would also have introduced new internationally accepted measures such as the patent box, research and development

incentives, a notional interest deduction, and a basis step-up. Refer to [Tax Insights](#) from International Tax Services for further information.

Compliance and enforcement of the CRS in the Cayman Islands

The Cayman Islands government recently approved regulatory amendments for compliance with and enforcement of the Common Reporting Standard (CRS) by financial institutions. The clarifications and additions include the notification requirement for Cayman Financial Institutions; CRS policies and procedures; return filing requirements for Cayman Reporting Financial Institutions, including guidance relating to the use of separate jurisdiction reporting; and offenses and penalties for contravening the CRS regulations. Refer to [Tax Insights](#) for further information.

German draft bill would restrict deductibility of related-party royalties

The German Federal Cabinet agreed on a draft bill that would restrict the tax deductibility of related-party royalty payments, under certain conditions. The German government is focused on situations in which the royalty income is taxed as part of a special patent box regime that does not meet the OECD's 'nexus' approach. If the draft bill is enacted, the rule is expected to apply to royalty expenses incurred after 31 December 2017. Refer to [Tax Insights](#) for further information.

Release of the 2017 Indian Union Budget

The 2017 Indian Union Budget was released on 1 February 2017. For a comprehensive analysis of the Budget, refer to this [PwC publication](#). The Budget is also expected to affect foreign investors and multinational enterprises. This includes rationalisation of capital gains taxation, benefits for cross-border debt, and initiatives based on the OECD BEPS action plan – refer to [Tax Insights](#) for further information. The Budget proposals are also expected to tighten compliance obligations and increase mobility costs – refer to [Insights](#) from Global Mobility.

Indian Central Board of Direct Taxes offers opinions on GAAR

The Indian Central Board of Direct Taxes (CBDT) created a Working Group in June 2016 to consider issues regarding the implementation of its general

anti-avoidance rules (GAAR). After considering the Working Group's comments, the CBDT issued a Circular providing its opinions on the GAAR's applicability and implementation. The GAAR will take effect on 1 April 2017. Refer to [Tax Insights](#) for further information.

Papua New Guinea – More budget changes

The Papua New Guinea Parliament passed further taxation changes effective from 1 January 2017. These changes address some of the concerns arising from the National Budget in November, but have also added to uncertainty by introducing additional changes that could again be seen as unintended consequences. Refer to this [PwC publication](#) for further information.

Report on consultation on International Dealings Schedule

The ATO released the [International dealings schedule \(IDS\) consultation report](#) to implement a recommendation from the Inspector-General of Taxation's 2012 report, 'Review into the ATO's management of transfer pricing matters'. Some of the issues discussed include IDS reporting and compliance costs, use of natural business systems in IDS reporting and the impact of tax law changes, including new transfer pricing documentation requirements on the IDS.

Practical compliance guideline for offshore hubs

The ATO released [PCG 2017/1](#), which discusses the ATO's compliance approach to transfer pricing issues related to the location and relocation of certain business activities and operating risks into a centralised operating model typically involving procurement, marketing, sales and distribution functions (an 'offshore hub').

The framework set out in this Guideline is aimed to be used by taxpayers to:

- assess the compliance risk of the transfer pricing outcomes of hubs in accordance with the ATO's risk framework
- understand the compliance approach that the ATO will likely adopt having regard to the risk profile of a taxpayer's hub
- work with the ATO to mitigate the transfer pricing risk in relation to a hub and have confidence that risk exposure is reduced, and

- understand the type of analysis and evidence the ATO would require when testing the outcomes of any hub.

The PCG has effect from 1 January 2017 and will apply to existing and newly created hubs.

 [Explore PwC's global tax research and insights](#)

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Indirect Tax Update

UberX services constituted a supply of 'taxi travel'

The Federal Court delivered its decision in [Uber B.V. v Commissioner of Taxation](#), finding the provision of UberX services to passengers constituted a supply of 'taxi travel' within the meaning of section 144-5(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

The ATO has since updated its [guidance material](#) on ride-sourcing, reminding drivers they are required to register for goods and services tax (GST) if they carry on an enterprise and provide taxi travel services in that enterprise, regardless of turnover.

GST on low-value imported goods

On 16 February 2017, the Government introduced into Parliament new law (*Treasury Laws Amendment (GST Low Value Goods) Bill 2017*) that will extend GST to low value imports of physical goods imported by consumers from 1 July 2017. In brief, a vendor registration model will be used and suppliers with an Australian turnover of AUD 75,000 or more in a twelve month period will be required to register and charge GST on goods imported to Australia. The existing processes to collect GST on imports above AUD 1,000 at the border are broadly unchanged. Since the new rules

International Tax News

See PwC's [International Tax News – February 2017](#) for further analysis of the tax developments worldwide.

apply in a little less than four months, affected entities should be considering their obligations and making necessary changes to systems and processes. Refer to [TalkTalkInsights](#) for further information.

The ATO has released a draft Law Companion Guide LCG 2017/D2, which is designed as a consultation document (comments close on 24 March 2017) and contains a discussion and examples on how to calculate the GST on low value goods, rules regarding the prevention of double taxation and how the rules deal with other provisions. The ATO will release further guidance on foreign exchange conversion to determine the liable entity and notification requirements and is seeking feedback on all of these issues. The LCG 2017/D2 also contains some welcome guidance on the interaction of these provisions and Australian Consumer Law dealing with GST inclusive pricing.

Draft GST Determination on second-hand goods exclusion

On 22 February 2017, the ATO released Draft GST Determination [GSTD 2017/D1](#), which discusses what is excluded from paragraph (b) of the definition of 'second-hand goods' in Division 195 of the GST Act. According to the draft determination, the definition of 'second-hand goods' must be read as excluding goods to the extent that they consist of

gold, silver, platinum or any other substance which, if it were of the required fineness, and in an investment form, would be precious metal.

To the extent that goods consist of a substance which would be precious metal if of the required fineness and in an investment form, the acquisition of those goods by a second-hand dealer from an unregistered entity is not a creditable acquisition under Division 66 of the GST Act.

The Draft Determination acknowledges that in some cases, apportionment may be necessary. For example, a second-hand dealer may acquire items for a price determined in part by reference to the prevailing spot price of the constituent metal, and in part by reference to the intrinsic value of another component (such as a precious stone in an item of gold jewellery). In such cases, the dealer will need to apportion the consideration paid for the goods between that part of the goods which qualifies as second-hand goods, and that part which is excluded by virtue of paragraph (b), in order to properly calculate their input tax credit entitlement.

When the final Determination is issued, it is proposed to apply from the start of the first tax

period commencing after its date of issue, unless the Commissioner considers that taxpayers were involved in fraud, evasion, tax avoidance schemes (whether or not a declaration has been made under section 165-40), or any other artificial or contrived arrangements involving the manipulation of the form or fineness of gold, silver, platinum etcetera. In such cases, the Determination will apply to tax periods both before and after its date of issue.

ATO consulting on various GST issues

The ATO has issued [consultation papers](#) on the following GST matters:

- [Decision in MBI Properties case impact on GSTR 2006-9](#)
- [GST and residential care](#)
- [GST and home care](#)
- [Issues concerning electronic distribution platforms](#)

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State Tax Update

High Court on duplication error in land tax assessments

In [Commissioner of State Revenue v ACN 005 057 349 Pty Ltd](#), the High Court ordered the taxpayer to repay amounts refunded by the Victorian Commissioner of State Revenue following a duplication error in the issue of land tax assessments. The High Court held the Victorian Supreme Court - Court of Appeal should not have ordered the Commissioner to issue amended land tax assessments to the taxpayer and repay excess amounts, as the Commissioner did not have this

duty under section 19 of the *Land Tax Act 1958* (Vic).

Dominant use of land for primary production land tax exemption

Two recent cases have established that future or intended use of land is not relevant 'use' for the purposes of the New South Wales (NSW) primary production land tax exemption. However, in the case of proposed property development, the availability of the exemption may depend on the

nature and extent of the preparatory work being undertaken on the land at the relevant time.

In *Chief Commissioner of State Revenue v Metricon QLD Pty Ltd*, the NSW Court of Appeal confirmed the Supreme Court decision that a property developer was entitled to a land tax exemption for primary production as that was the dominant use of the land at the time. Steps that were taken to prepare the property for development at the relevant time did not extend to 'use' of the land, as these steps were preparatory to the commencement of a use of the land by means of development by subdivision and sale. This decision confirms a future or intended use of the land does not override a present use for primary production, thus allowing the land tax exemption to apply.

In *Leppington Pastoral Co Pty Ltd v Chief Commissioner of State Revenue*, the Supreme Court of NSW partially confirmed land tax assessments for the relevant years as the Court was not satisfied that the dominant use of the land was for primary production for all relevant years. The land subject to the assessment was originally designated as farmland, but was progressively used for a major residential development.

ACT 'Barrier Free' model for collection of stamp duty

The Australian Capital Territory (ACT) enacted the *Revenue Legislation Amendment Act 2017*, which makes extensive amendments to adopt a 'Barrier Free' model for the collection of stamp duty. The amendments include:

- modifying the timing of the conveyance duty process so that payment occurs after settlement
- requiring the registration of dutiable instruments under the Land Titles Act
- simplifying and consolidating of exemptions from duty, and
- abolishing \$20 and \$200 nominal duty.

QLD: Ex gratia stamp duty relief for financial institutions

The Queensland Commissioner of State Revenue has issued public ruling [DA000.8.2](#) regarding ex gratia relief for transfer duty potentially arising in relation to mergers, acquisitions and transfers of assets of financial institutions. The ruling outlines the term of the approved ex gratia relief and has effect from 19 January 2017.

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Superannuation update

Discussion paper – retirement products

The Government released a [discussion paper](#) on the framework for funds to issue 'MyRetirement products'. The discussion paper seeks feedback to assist with the framework relating to:

- the structure and minimum requirements,
- the framework for regulating, and
- the offering of a MyRetirement product (i.e. facilitate the ability for trustees to provide an easier transition into retirement for individuals, and other actions necessary meet this objective).

Submissions are due by 28 April 2017.

Superannuation Reform Package – Regulations

Treasury released a further tranche of draft regulations relating to superannuation reform for [consultation](#).

The draft regulations relate to items such as:

- Lowering the annual non-concessional cap,
- Improving access to tax deductions for personal contributions, and
- Implementing the transfer balance cap.

We will keep you updated on changes that result from the consultation process.

Superannuation Guarantee – Senate Inquiry

On 1 December 2016, the Senate referred an inquiry into the non-payment of superannuation guarantee to the Senate Economics References Committee. The terms of reference can be accessed [here](#). The report is to be issued by 22 March 2017.

Privatisation and Infrastructure – Australian Federal Tax Framework (January 2017 Draft)

The ATO released a [draft framework](#) for discussion, which sets out the framework and the ATO's overall position on a range of infrastructure-related tax

issues. The ATO indicated this framework is intended to be a living document and will be updated as new transactions and issues emerge. The ATO has also outlined in the document the areas of concern and where it intends to focus its compliance activity.

Although this document is only in draft at present and may change following consultation with industry, it provides some insight into the ATO's views on particular arrangements. As superannuation funds are regular investors in infrastructure investments, they should consider the ATO's views in evaluating the risks associated with such investments. Refer to our [Taxtalk Alert](#) for further information.

Stapled Structures – Taxpayer Alert TA 2017/1

On 31 January 2017, the Tax Commissioner released [TA 2017/1](#), expressing his concern about stapled structures where trading income is re-characterised as passive income and diverted through a flow through trust. The ATO identified the following arrangements as being of concern:

- Finance staple,
- Synthetic equity staple,
- Royalty staple, and
- Rental staple.

As superannuation funds may set up or invest in staple structures, it is important to understand the ATO position and engage with the ATO when contemplating such investment structures.

Superannuation changes – ATO update

The ATO released an [update](#) for APRA regulated funds on the budget measures that recently received Royal Assent. The ATO also indicated their website will be progressively updated to provide further guidance for funds.

Superannuation funds should ensure their websites and publications are updated for the numerous changes that generally apply from 1 July 2017.

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Legislative update

Federal Parliament resumed for the Autumn 2017 sittings on 7 February 2017. Commonwealth revenue measures introduced into Parliament or registered as legislative instruments or regulations since our previous TaxTalk publication include:

- [Treasury Laws Amendment \(Combating Multinational Tax Avoidance\) Bill 2017](#) and [Diverted Profits Tax Bill 2017](#), introduced into the House of Representatives on 9 February 2017, which contain the following measures:
 - a new Diverted Profits Tax,
 - increased administrative penalties for significant global entities, and
 - updating the reference to OECD transfer pricing guidelines in Australia's transfer pricing rules to include the 2016 OECD amendments to the guidelines.
- Refer to the Treasurer's [media release](#) and [TaxTalkInsights](#) for further information. The Bills have since been referred to the [Senate Economics Legislation Committee](#) for report by 20 March 2017. Submissions to the Committee can be made until 1 March 2017.
- [Social Services Legislation Amendment \(Omnibus Savings and Child Care Reform\) Bill 2017](#), introduced into the House of Representatives on 8 February 2017, which contains the Government's revised Jobs for Families package. This includes changes to child care rebates, Family Tax Benefits and paid parental leave.
 - The [Treasury Laws Amendment \(Bourke Street Fund\) Bill 2017](#), introduced into the House of Representatives on 9 February 2017, which proposes to include the 2017 Bourke Street Fund Trust Account on the list of deductible gift

recipients (this Bill has since completed its passage through Parliament).

- [Treasury Laws Amendment \(Working Holiday Maker Employer Register\) Bill 2017](#), introduced into the House of Representatives on 16 February 2017. Refer to the [Employment Taxes Update](#) for further information.
- [Treasury Laws Amendment \(GST Low Value Goods\) Bill 2017](#), introduced into the House of Representatives on 16 February 2017, which proposes to amend the *A New Tax System (Goods and Services Tax) Act 1999* to ensure GST is payable on certain supplies of low value goods that are purchased by consumers and are imported into Australia. Refer to [TalkTalk-Insights](#) for further information.
- [Crimes Amendment \(Penalty Unit\) Bill 2017](#), introduced into the House of Representatives on 16 February 2017. Refer to the [Employment Taxes Update](#) for further information.
- [Treasury Laws Amendment \(2017 Measures No 1\) Bill 2017](#), introduced into the House of Representatives on 16 February 2017. This Bill proposes to:
 - make minor technical changes to the income tax law to ensure the National Innovation and Science Agenda measures relating to the tax concessions applicable to early stage investment and venture capital investments (contained in *Tax Laws Amendment (Tax Incentives for Innovation) Act 2016*) operate in accordance with their original policy intent, and
 - amendments to allow the Australian Securities and Investments Commission to more readily share confidential information with the Commissioner of Taxation.

- The [Treasury Laws Amendment \(Enterprise Tax Plan\) Bill 2016](#) is still before Parliament. This Bill proposes to amend the law to:
 - give effect to the Government’s proposals to reduce the corporate tax rate to 25 per cent,
 - increase the tax discount for unincorporated small businesses, and
 - increase the small business entity threshold for certain purposes.

The following Customs and Excise notices and by-laws have also come into effect:

- [Notice of Substituted Rates Excise Duty for excise equivalent goods](#) (alcohol and fuel), effective from 1 February 2017
- [Notice of Substituted Rates of Customs Duty for excise-equivalent goods](#) (alcohol and fuel), effective from 1 February 2017
- [Customs By-law No. 1700053](#) to reduce the duty free tobacco allowance from 1 July 2017.

Let's talk

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

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Other news

Tax Determination on intangible capital improvements made to pre-CGT asset

Taxation Determination [TD 2017/1](#) indicates that intangible capital improvements made to an asset that was acquired *before* 20 September 1985 (a pre-CGT asset) can be a separate asset for the purpose of subsections 108-70(2) or (3) of the *Income Tax Assessment Act 1997*. This Determination applies to years of income commencing both before and after its date of issue.

ATO administrative treatment of proposed tax changes involving small business entities

The ATO has released its administrative treatment in relation to the Government’s proposals to [increase the unincorporated small business tax discount](#) incrementally over 10 years from 5 per cent to 16 per cent, and to [increase the small business entity turnover threshold](#) from AUD 2 million to

AUD 10 million from 1 July 2016 (as contained in [Treasury Laws Amendment \(Enterprise Tax Plan\) Bill 2016](#), which is still before Parliament). Broadly, the ATO will accept returns as lodged until the outcome of the proposed amendments is known, at which time affected taxpayers should review their position and seek amendments if required.

ATO releases draft effective life of assets used in various industries

The ATO has released for comment drafts of the proposed effective life of assets used in the following industries:

- [mineral mining support services](#)
- [wool scouring](#)
- [electronic information storage services.](#)

IGOT 2017 Work Program

The Inspector General of Taxation (IGOT) released their [work program for 2017](#). The Inspector General plans to commence the following new reviews in 2017: Goods and Services Tax Refunds, PAYG

Instalments System, and Future of the Tax Profession.

The IGOT also identified the following additional reviews which may also commence in the 2017 depending on time and resourcing considerations and competing priorities:

- Influencing willing participation in the tax and superannuation systems,
- ATO's approach to providing advice and guidance,
- ATO's use of fraud or evasion opinions, and
- ATO's approach to R&D incentive claims.

Review of ATO advice on scholarships

The ATO released a [discussion paper](#) on the exemption from taxation for amounts paid as a scholarship, bursary, educational allowance or educational assistance. Comments can be made until 31 March 2017.

Audit on ATO's monitoring and implementation of recommendations

The Australian National Audit Office (ANAO) completed its [audit](#) of the effectiveness of the ATO's monitoring and implementation of recommendations about its administration made by

the ANAO and parliamentary committees. The audit found that the ATO effectively monitored and implemented these recommendations.

Transparency of beneficial ownership of companies

The Minister for Revenue and Financial Services has [released](#) a [consultation paper](#) regarding the previously announced measure to increase transparency of the beneficial ownership of companies. The paper sets out options for establishing a register of beneficial ownership for companies, the companies that would be within scope, and the information to be collected. Comments can be made until 13 March 2017.

Federal Court affirms Commissioner's decision to issue multiple 'alternative' assessments

In [Whitby Land Company Pty Ltd \(Trustee\) v Deputy Commissioner of Taxation](#), Federal Court affirmed the Commissioner's decision to issue multiple 'alternative' assessments to a trustee under section 98 and 99A of the *Income Tax Assessment Act 1936*. The Court held the Commissioner could make an assessment against more than one person in respect of the same income and dismissed the trustee's claims that they were mere tentative or provisional assessments.

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