

May 2018

TaxTalk Monthly

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



Corporate Tax Update

R&D Incentive changes flagged for Federal Budget

The Treasurer in a [speech](#) has indicated that the Government will respond to the [Research and Development \(R&D\) Tax Incentive review](#) in the upcoming Federal Budget to ensure that the taxpayer's significant investment in R&D, through

this incentive, is generating maximum benefit for the economy and the Australian public. The Treasurer commented that the Government's focus "is to relaunch an R&D tax incentive that is all about R&D additionality, things that would not have happened anyway, and rewarding the intensity of that effort."

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Employment Taxes Update

Tasmania announces payroll tax changes

The Tasmanian Government has [announced](#) that it will introduce legislation to provide payroll tax relief for up to three years to businesses that relocate to Tasmania and establish their operations in a regional area. Details of the proposed legislative requirements are still to be released.

The Government has also [announced](#) that it proposes to extend its current payroll tax rebate scheme for apprentices and trainees to 2021, with a targeted focus on areas where there are identified skill shortages.

ATO focus on Fringe Benefits Tax compliance

The ATO has highlighted a number of areas where errors are commonly made by taxpayers as key FBT focus areas for the ATO this year:

- failing to report an employee's private use of a company car
- claiming exempt food and accommodation in living-away-from-home allowance benefits
- undervaluing employee car park benefits, and
- incorrectly claiming employer exemptions and rebates.

It is important to be clear on your obligations and entitlements when reporting FBT to the ATO.

ATO data matching – motor vehicles

The ATO has advised that it will acquire information during the 2016-17, 2017-18 and 2018-19 financial years on vehicles that have been transferred or newly registered where the purchase price or market value is equal to or greater than AUD 10,000 as part of a data matching program. These records will be used, in part, to identify taxpayers who have not met

their obligations with regards to Fringe Benefits Tax.

PAYG Withholding annual reporting exemption - Single Touch Payroll

The [*PAYG Withholding annual reporting exemptions: Single Touch Payroll optional year*](#) legislative instrument was released during the month. This instrument exempts an entity that entered the Single Touch Payroll system prior to 1 July 2018 from its obligations to provide payment summaries and annual reports under the PAYG Withholding system for all or part of the period between 1 July 2017 to 30 June 2018, to the extent that the relevant information has been reported under Single Touch Payroll.

Application of the Payroll Tax contractor provisions to financial planners (NSW)

The NSW Civil and Administrative Tribunal has found in favour of the Chief Commissioner in [*Novus Capital Ltd v Chief Commissioner of State Revenue \[2018\] NSWCATAD 72*](#) in relation to the treatment of payments made to 'Authorised Representatives' who were not employees of Novus Capital but who provided financial services under Novus Capital's Australian Financial Services License (AFSL).

Despite contentions made by Novus Capital that the agreements with the Authorised Representatives were not 'relevant contracts' on the basis that they were licensing agreements relating to the use of its AFSL with no services flowing between the Authorised Representatives and Novus Capital, the Tribunal was not satisfied that the Authorised Representatives did not act as agents of Novus Capital. The Tribunal found that the agreements between Novus Capital and the Authorised Representatives were relevant contracts and were prima facie subject to payroll tax.

The Tribunal was also asked to consider a number of other issues, including the application of certain contractor exemptions to payments made to Authorised Representatives (i.e. the 90 day exemption and services provided by two or more persons exemption), the availability of deductions for any non-labour components of agreements with the Authorised Representatives, as well as the payroll tax treatment of payments made to third parties in respect of services performed by the Managing Director. Ultimately, the Tribunal was not satisfied that sufficient evidence was maintained by Novus Capital to support the application of the contractor exemptions. In addition, the Tribunal found that Novus Capital did not provide sufficient evidence to support any variation in the five per cent

non-labour deduction for contractor payments that had already been determined by the Chief Commissioner, and payments made to third parties were considered to fall within the definition of taxable wages for payroll tax purposes.

Employment termination payments determination

The Australian Taxation Office (ATO) has released [*ETP 2018/1: Income Tax Employment Termination Payments \(12 month rule\) Determination 2018*](#). This determination replaces *Employment Termination Payments (12 month rule) Determination 2007*, and is substantially the same as the previous determination.

The new determination extends the definition of employment termination payment to include certain payments that are received more than 12 months after the termination of a person's employment if the delay in the payment was due to the commencement of legal action concerning the person's entitlement to the payment and/or the amount of the person's entitlement.

Treasury working paper on payroll tax

Federal Treasury has released a [working paper](#) which uses administrative business income tax data covering 2001-02 to 2014-15 to determine whether payroll tax affects the behaviour of businesses. The key observations to emerge were:

- Businesses generally do not bunch below the payroll tax threshold.
- The limited bunching in Victoria, which had one of the lowest thresholds and one of the lowest tax rates during the sample period, is unexpected as Victoria followed the policy prescription designed to mitigate the adverse effects of payroll tax.
- Businesses, in general, do not attempt to avoid payroll tax by hiring contractors.

ATO issues FBT determinations for 2018-19 FBT year

The following Fringe Benefits Tax (FBT) determinations were issued during April 2018:

- [*TD 2018/1: FBT*](#). The Determination sets indexation factors for valuing non-remote housing for the fringe benefits tax year commencing on 1 April 2018.
- [*TD 2018/2: FBT*](#). The benchmark interest rate for the fringe benefits tax year commencing on 1 April 2018 is 5.20 per cent per annum.

- **TD 2018/3: FBT.** The Determination sets out the reasonable amounts for food and drink expenses incurred by employees receiving a living away from home allowance (LAFHA) fringe benefit for the FBT year commencing 1 April 2018.
- **TD 2018/4: FBT.** The Determination sets out the cents per kilometre rates that can be used for

determining the taxable value of a motor vehicle (other than a car) for the FBT year commencing 1 April 2018.

- **TD 2018/5: FBT.** The record keeping exemption threshold for the FBT year commencing 1 April 2018 is AUD 8,552.

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Global Tax Update

Latest news from international tax and transfer pricing

US tax reform developments

To keep up to date with the latest developments, news and implications of tax reform in the United States (US), visit [PwC's dedicated website](#). The website is regularly updated, and brings together insights from business specialists across the globe for US inbound and outbound organisations navigating change. Some recent updates to note include:

- [Tax reform readiness - International tax provisions have complex state implications.](#)
- [Tax reform readiness - What should treasurers do today?](#)
- [Treasury and IRS release third notice on toll tax.](#)
- [Updated IRS Q&As could immediately impact taxpayers electing to pay toll tax in instalments.](#)
- [IRS Notice provides transitional guidance on advance payment rule.](#)
- [Third Section 965 Notice on the 'toll tax' calls for immediate action.](#)

- [Uncertainty around application of the BEAT raises issues for non-US headquartered service companies.](#)
- [Summary of key 2017 and 2018 federal tax rates and limits—many changes after tax reform.](#)
- [First guidance under amended interest expense limitation clarifies high-profile issues.](#)
- [Key tax developments for global companies operating in the USA](#), including tax reform updates for US inbound organisations and uncertainties on dispositions of partnership interests by foreign persons.

PwC US continues to host a tax reform readiness webcast series, covering everything from financial reporting implications to workforce strategies and business preparedness. You can view past webcast recordings, and register for upcoming topics by following this link: www.pwc.com.au/ustaxreform.

Updated PCG issued on Simplified Transfer Pricing Record Keeping Options

The Australian Taxation Office (ATO) has published an update to Practical Compliance Guideline [PCG 2017/2](#) on simplified Transfer Pricing Record Keeping Options that reflect the types of transactions or activities the ATO believe are low risk in the context of international related party dealings. This update provides the minimum interest rate for small related party outbound loans for the 2018 year.

Australia-France tax treaty

The Australian Federal Treasurer has provided [notice](#) that Article 26 (*Assistance in Recovery*) of the Australia-France double tax treaty entered into effect on 1 April 2018. Article 26 obliges each jurisdiction to take certain action in its own territory to assist the collection of taxes owed to the other.

ATO multinational compliance focus

Australian Taxation Office Deputy Commissioner Mark Konza, in a recent [speech](#), highlighted developments in Australia over the last few years on base erosion and profit shifting (BEPS) and multinational enterprise tax compliance.

Key multinational compliance focus areas for the ATO that were mentioned include:

- transfer pricing in the pharmaceutical industry
- for the energy and resources sector - exploration expenditure, hubs (particularly marketing hubs) and related party financing, the use of derivatives to avoid interest withholding tax and cross currency interest rate swaps
- the fragmentation of business structures to re-characterise income
- the transfer of intellectual property offshore, and
- the manipulation of thin capitalisation calculations.

When it comes to possible developments and issues for the future, it is interesting to note Deputy Commissioner Mark Konza's comment that "... we are closely watching international developments for signals on further legislative change. Australia's position is a balance: we do not seek to go out ahead of the international consensus, but nor will we be left behind."

OECD and BEPS developments

The Organisation for Economic Cooperation and Development (OECD) has [released additional](#)

[guidance](#) on the attribution of profits to a permanent establishment resulting from the changes in the Report on BEPS Action 7 to Article 5 of the OECD Model Tax Convention. This additional guidance sets out high-level general principles for the attribution of profits to permanent establishments, and includes examples of a commissionaire structure for the sale of goods, an online advertising sales structure, and a procurement structure. Refer to PwC's [Global Tax Insights](#) for further details.

In other developments:

- The OECD [published](#) a new set of bilateral exchange relationships established under the Common Reporting Standard Multilateral Competent Authority Agreement (CRS MCAA) which now includes activations by Panama. The OECD also released the second edition of the [Common Reporting Standard \(CRS\) Implementation Handbook](#). Refer to PwC's [Global Tax Insights](#) for further information.
- The OECD [announced](#) that the Multilateral BEPS Convention will enter into force on 1 July 2018 for Slovenia, Austria, the Isle of Man, Jersey, and Poland which have deposited their instruments of ratification. In accordance with the rules of the Convention, its contents will start to have effect for existing tax treaties from 2019.
- The OECD [published](#) new [transfer pricing country profiles](#) for Australia, China, Estonia, France, Georgia, Hungary, India, Israel, Liechtenstein, Norway, Poland, Portugal, Sweden and Uruguay respectively. These new profiles reflect current transfer pricing legislation and practices of each country. The profiles of Belgium and Russia have also been updated. Country profiles are now available for 44 countries.
- The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) and OECD has [released](#) a draft practice note that will help developing countries address profit shifting from their mining sectors via excessive interest deductions. Comments are due on 18 May 2018.
- It was [announced](#) that the Global Forum on Transparency and Exchange of Information has issued nine peer review reports. Four jurisdictions – Estonia, France, Monaco and New Zealand – received an overall rating of 'Compliant'. Three others – Bahamas, Belgium and Hungary were rated 'Largely Compliant'. Ghana was rated 'Partially Compliant'. Progress for Jamaica was recognised through a [Supplementary Report](#), which attributes a 'Largely Compliant' rating.

- The OECD has given an [update](#) on the actions to address the misuse of residence/citizenship by investment schemes to ensure that the integrity of the OECD/G20 CRS is preserved.

Singapore's new transfer pricing rules and guidelines

Singapore has introduced new transfer pricing rules, as well as guidelines on how these rules are to be applied. The rules codify requirements for the preparation of transfer pricing documentation. In addition, new penalties and fines for non-compliance were introduced as part of the legislative package. The detailed rules set out the powers of the Inland Revenue Authority of Singapore to enforce the arm's-length principle. Refer to PwC's [Global Tax Insights](#) for further information.

China extends preferential income tax policy for integrated circuit enterprises

The Chinese Ministry of Finance, State Administration of Taxation, National Development and Reform Commission, and the Ministry of Industry and Information Technology jointly issued Public Notice on the corporate income tax policy for software and integrated circuit (IC) enterprises. The notice provides incentives to qualified IC enterprises or projects established after 1 January 2018, and to qualified IC enterprises established before 31 December 2017, that have not yet made a profit. Refer to PwC's [Global Tax Insights](#) for further information.

German tax authorities release circular on anti-treaty/directive-shopping rules

German tax authorities have released a circular addressing the European Union (EU) law compliant interpretation of the German anti-treaty/directive-shopping rules. The Circular responds to recent judgments of the European Union Court of Justice. As a result of this circular, more taxpayers should benefit from the withholding tax reduction under the EU Parent-Subsidiary Directive. Refer to PwC's [Global Tax Insights](#) for further information.

European Commission releases State aid opening decision

The European Commission (EC) has made publicly available the non-confidential version of its opening decision in the formal investigation into another EC State aid decision in the area of transfer pricing. If the EC's approach is confirmed in its final decision, we expect further litigation before the European courts. Multinational enterprises should be aware of the possible impact of the EU State Aid developments on their current fact patterns and plan accordingly. Refer to [PwC's Global Tax Insights](#) for further information.

New Luxembourg IP tax regime

The Luxembourg Government has approved legislative measures necessary to bring Luxembourg's new intellectual property (IP) regime into force effective from 1 January 2018. The new regime provides an 80 per cent tax exemption on eligible net income for qualifying IP rights. Refer to PwC's [Global Tax Insights](#) for further information.

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

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Indirect Tax Update

Foreign currency conversion – draft legislative determinations

The following draft legislative determinations dealing with foreign currency conversion for goods and services tax (GST) purposes were issued for comment during April:

- ***FOREX 2018/D1: Draft Goods and Services Tax: Foreign Currency Conversion Determination 2018.*** This draft determination sets out the method to convert amounts of consideration that are expressed in foreign currency into Australian currency for the purposes of working out the value of a taxable supply.
- ***LVG 2018/D1: Draft Goods and Services Tax: Foreign Currency (Customs Value of Low Value Goods) Determination 2018.*** This draft determination provides a method for converting an amount expressed in foreign currency into Australian currency when working out the customs value of goods to determine if there is a supply of low value goods.

Comments are due by 9 May 2018. Both determinations will apply from 1 July 2018 when finalised.

GST governance and record keeping for financial suppliers

The Australian Taxation Office (ATO) has developed [draft web guidance](#) on GST governance and record keeping for financial suppliers in relation to the priority issues identified in the ATO's GST Financial Services and Insurance (FSI) strategy. This includes determining the extent of creditable purpose, reduced credit acquisitions, the reverse charge for recipients of cross-border supplies, rights for use offshore and significant or unusual transactions. Comments are due by 18 May 2018.

Report on GST Revenue Sharing Relativities

The Commonwealth Grants Commission has released its [report](#) on GST Revenue Sharing

Relativities. The report contains the Commission's response to the terms of reference for the 2018 update received from the Treasurer. The Commission had been asked to advise on how GST revenue should be distributed among the States in 2018-19.

In addition, the Treasurer has [announced](#) that States and Territories are projected to receive AUD 5 billion in additional GST funding over four years (detailed in the report), from new measures such as improving the integrity of GST on property transactions and applying the GST to digital products and services and to low value goods imported to Australia.

Tariff cuts under Japan - Australia trade agreement

The fifth round of tariff cuts under the Japan-Australia Economic Partnership Agreement (JAEPA) came into effect on 1 April 2018. Refer to the Government's [media release](#) for further information.

Senate inquiry into TPP 11

The Senate has [referred](#) the Proposed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP 11) to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 18 September 2018.

Trade and Customs regulations

[Regulations](#) have been made to amend the *Customs Regulation 2015*, the *Customs (Prohibited Exports) Regulations 1958*, the *Customs (Prohibited Imports) Regulations 1956* and the *Commerce (Trade Descriptions) Regulation 2016* (CTD) to improve and strengthen policies, as well as administrative practice. For example, Schedule 1 of the Regulations amends the CTD Regulation to insert an offence for contraventions of the labelling requirements for certain goods at the border with a corresponding penalty (operating as a maximum) of 50 penalty units (AUD 10,500).

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Personal Tax Update

Full Federal Court rules on entitlement to marriage breakdown roll-over relief

The Full Federal Court in *Ellison v Sandini Pty Ltd [2018] FCAFC 44* has granted the appeal against the decision of the [Federal Court](#), finding that the taxpayer was not entitled to Capital Gains Tax (CGT) roll-over relief in relation to a marriage breakdown as the conditions in section 126-15(1) of the *Income Tax Assessment Act 1997* (Cth) (ITAA 1997) were not satisfied. The Court, in rejecting the declarations made by the Primary Judge, held that the transfer by the corporate trustee of shares was not 'because of the family court orders and, as such, there was no 'change of ownership' as a result of such orders. The Court did however, find that CGT Event A1 occurred either upon the execution of the share transfer form or the registration of the share transfer.

Tribunal considers entitlement to work-related expense deductions

The Administrative Appeals Tribunal (AAT) has considered taxpayer entitlement to work-related deductions in the following cases:

- *PSJF v Commissioner of Taxation AATA 678*. The Tribunal found that certain 'work-related expenses' claimed by the taxpayer were not deductible as they were of a private nature. The Tribunal held that the taxpayer, who was employed as a photographer, had failed to provide adequate evidence to substantiate the relevant claims. The Tribunal also upheld a 25

per cent shortfall penalty imposed on the taxpayer for failure to take reasonable care in complying with tax obligations.

- *MMFT v Commissioner of Taxation [2018] AATA 772*. The AAT affirmed the Commissioner's objection decision and held that the taxpayer was not entitled to deductions in relation to work-related travel and property rental expense claims as these could not be substantiated. The Tribunal further held that the taxpayer failed to discharge the onus of proving that the default assessments were excessive as evidence was not provided to support PAYG withholding being remitted in relation to contracting work.

Labor Party to exempt pensioners from its dividend imputation reforms

The Australian Labor Party (ALP) has [announced](#) that it will introduce a new Pensioner Guarantee to protect pensioners from changes it has proposed to deny refunds from excess dividend imputation credits. If the ALP is elected, the Pensioner Guarantee will mean Australian Government pensioners and allowance recipients will be protected from the abolition of cash refunds for excess dividend imputation credits when the policy commences in July 2019. Self-managed superannuation funds (SMSF) with at least one Australian Government pensioner or allowance recipient before 28 March 2018 will also be exempt from the changes. For further information on the Labor Party's policy, refer to this [fact sheet](#).

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State Taxes Update

Victorian Revenue Ruling on grouping of related corporations for land tax

The Victorian State Revenue Office has issued [Revenue Ruling LTA-008](#), which sets out the relevant factors the Commissioner of State Revenue may take into consideration when exercising the discretion to group related corporations, and their treatment as a single corporation for Victorian land tax purposes. The ruling, which applies retrospectively from the 2006 land tax year, replaces [Revenue Ruling LT-002](#), which was withdrawn following the decision in [Tadcaster Sorrento Pty Ltd v Commissioner of State Revenue \[2015\] VCAT 611](#).

Land tax legislative update

The following land tax legislative developments have occurred since the April edition of TaxTalk Monthly:

- The [Land Tax Amendment Bill 2018 \(ACT\)](#), which proposes to amend the *Land Tax Act 2004 (ACT)* to extend land tax to all residential dwellings that are not an owner's principal place of residence and introduce a foreign ownership surcharge, has been introduced into ACT Parliament. The amendments are proposed to commence on 1 July 2018.
- The [Land Tax Assessment Amendment Bill 2017 \(WA\)](#), which amends the *Land Tax Assessment Act 2002 (WA)* to ensure that the land tax exemption is only available to organisations established for a public purpose and that perform a statutory function on behalf of the State. The Bill has passed through the WA Parliament and has been enacted.

Recent duty decisions

The following duty cases have been handed down since the April edition of TaxTalk Monthly:

- The New South Wales Civil and Administrative Tribunal in [Chrissie Group Pty Ltd atf All Angels Family Trust v Chief Commissioner of State Revenue \[2018\] NSWCATAD 77](#) has affirmed the Chief Commissioner's assessment of duty on the transfer of land to a private company which acted as trustee of a family discretionary trust. The issue in this case was whether nominal stamp duty should apply to the transfer of land which was not in conformity with the agreement to purchase which was entered into by an individual in her own name. The Tribunal, in reaching its decision, considered the statutory interpretation approach to conflicting relieving provisions in section 18 of the *Duties Act 1997 (NSW)*. It held that the general relieving provisions apply literally because the transferee was a private company and the person who entered into the agreement was the majority shareholder and director. The specific relieving provision did not apply because the transferee company was the trustee of a discretionary trust.
- The Victorian Civil and Administrative Tribunal in [Citera Investments Pty Ltd v Commissioner of State Revenue \[2018\] VCAT 519](#) has confirmed the decision of the Commissioner of State Revenue, finding that the taxpayer was not entitled to claim duty exemptions in relation to a land transfer as the requirements of section 36B and section 41 of the *Duties Act 2000 (VIC)* were not satisfied.
- The Supreme Court of Victoria in [Fagridas v Commissioner of State Revenue \[2018\] VSC 145](#) has refused the taxpayer's leave to appeal the [decision](#) of the Victorian Civil and Administrative Tribunal. The Court found that the Tribunal did

not make an error in identifying and applying the applicable legal test. The Tribunal had affirmed duty assessments issued by the Commissioner of State Revenue, finding that the transfer of land was not exempt from duty under section 36A of the *Duties Act 2000* (Vic) as it was not transferred to the taxpayers as beneficiaries of the trust, but rather was found to be transferred to the taxpayers as purchasers pursuant to a contract of sale.

NSW - Increased interest rate on tax default

Revenue NSW has [advised](#) that the market rate of interest imposed on any tax default (failing to make a payment) committed under various taxation and revenue laws it administers changed on 1 April 2018 to 1.77 per cent. This means the total interest rate is set at 9.77 per cent.

Northern Territory tax changes

The Northern Territory Treasurer, Nicole Manison, has [announced](#) budget repair measures to address the fiscal challenges facing the NT, including:

- A hybrid royalty scheme to ensure all operating mines in the NT pay a minimum royalty from 1 July 2019 equal to the greater of the existing 20 per cent profits-based scheme, or a value-based royalty on their gross mineral production revenue.

- Government fees and charges linked to revenue units will increase by a minimum of three per cent per annum or consumer price index (CPI) from 1 July 2018.
- A Derelict and Vacant Property Levy to commence from 1 July 2019 at a rate of 1 per cent on buildings which have a 50 per cent vacancy rate or more; and a rate of two per cent to be levied on undeveloped land, based on the unimproved capital value.
- Stamp duty exemptions have been abolished for the transfer of a petroleum lease, pipeline interest, licence, or permit. It is not yet clear whether the start date for this is from the date of announcement (e.g. 20 April 2018), or a later date. This will need to be confirmed once the amending legislation is introduced.
- Delaying, for one year, the implementation of increases to community gaming machine tax currently legislated to take effect from 1 July 2018 in order to assess the capital investment by the hotel industry in 2018-19.

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Superannuation Update

Member Account Attribute Service reporting determination

The Australian Taxation Office (ATO) has issued [SPR 2018/1: Taxation Administration Member Account Attribute Service – the Reporting of Information relating to Superannuation Account](#)

[Phases and Attributes 2018](#). The principal purpose of this instrument, which applies from 1 April 2018, is to set out the timeframe for superannuation providers in relation to superannuation plans (excluding self-managed superannuation funds), and life insurance companies to provide a statement to the Commissioner of Taxation in relation to an individual's superannuation account phases and attributes. The Member Account Attribute Service

(MAAS) form is the approved form for such purposes, and is to be lodged no later than five business days after the day on which:

- an account is opened or a life insurance policy is first held, and
- any changes to the account phases and/or attributes relating to the account or policy occur.

As the statement is required to be provided in the approved form, penalties may be imposed for failure to lodge on time in the approved form.

ATO Consults on release authorities

The ATO has recently conducted consultation on updates to [Release Authority and Release Authority Statements \(RAS\)](#) for excess contributions and Division 293 tax. From October 2018, the ATO will streamline the RAS into one product for excess concessional contributions and excess non-concessional contributions (ENCC) and Division 293. Comments were due on 18 April 2018.

SuperStream reporting research data

The ATO has released its [research data](#) on SuperStream, including benchmarking reports. This is the result of the ATO-commissioned research into employers' progress on the implementation of

SuperStream and their experience with paying super. A representative sample of 1,920 employers were surveyed across Australia covering all sizes, industries and geographies. The SuperStream benchmarking data focuses on contributions processing by Australian Prudential Regulation Authority (APRA)-regulated funds and Exempt Public Sector Superannuation Schemes (EPSSS).

Duplicated accounts in the calculation of Total Superannuation Balance

The ATO has issued a [Discussion Paper](#) on total superannuation balances (TSB) that include amounts which have been incorrectly duplicated. TSB is calculated using amounts from Member Contribution Statements (MCS) and Transfer Balance Account Report (TBAR) forms which are then matched to avoid duplication. However, the ATO has identified seven reporting scenarios that have resulted in errors in TSB because MCS and TBAR do not match. The ATO is seeking comments before 4 May 2018 on those reporting scenarios identified. Funds that are currently affected by the duplication will be contacted by the ATO after 4 May 2018 to discuss what action the fund may need to take.

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Legislative Update

Since Federal Parliament finished its Autumn session on Thursday 29 March 2018, there has been no movement on the legislative front.

However, it is worth noting that the following key tax Bills were given Royal Assent:

- [Treasury Laws Amendment \(Income Tax Consolidation Integrity\) Bill 2018](#), which makes various changes to improve the integrity and operation of the tax consolidation regime.

- [Treasury Laws Amendment \(2018 Measures No. 1\) Bill 2018](#), which extends the loss relief and asset roll-over for merging superannuation funds until 1 July 2020, and requires (from 1 July 2018) purchasers of new residential premises and new subdivisions of potential residential land to make a payment of part of the purchase price representing the goods and services tax (GST) directly to the Australian Taxation Office.
- [Treasury Laws Amendment \(Junior Minerals Exploration Incentive\) Bill 2017](#), which introduces the Junior Minerals Exploration Incentive (JMEI) for those who invest in small minerals exploration companies undertaking greenfields minerals exploration in Australia.

Federal Parliament commences the Winter sitting on Tuesday 8 May 2018, which is also the day of the 2018-19 Federal Budget.

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Other News

Inquiry into impediments to business investment

The Treasurer has written to the Chair of the House of Representatives Standing Committee on Economics to [request](#) that the Committee undertake an inquiry into the impediments to business investment in Australia, including the role of taxation policy at the Commonwealth and State government levels.

Government launches investigation into ATO

As reported in the media, the Minister for Revenue and Financial Services has launched an investigation into the Australian Taxation Office (ATO), following recent media reports about its administration and dealings with small businesses. The ATO has also released a [statement](#) addressing the allegations. The Small Business and Family Enterprise Ombudsman has also [called](#) on affected small business owners to contact the Ombudsman.

Data matching program for motor vehicle registries

The ATO has [announced](#) that it will acquire information during the 2016-17, 2017-18 and 2018-19 financial years from the eight State and Territory motor vehicle registry authorities on vehicles that have been transferred or newly registered where the purchase price or market value is equal to or greater than AUD 10,000. These records will be electronically matched with ATO data holdings to identify non-compliance with obligations under taxation and superannuation laws.

Third party reporting determination

The ATO has issued [TPRE 2018/2: Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2018](#). The instrument exempts the following classes of transactions from third party reporting in relation to items 6, 7 or 8 in the table included in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) (TAA 1953), from 1 July 2017:

- transactions in respect of shares listed on Australian financial markets that are not required to deliver data to the Australian Securities and Investment Commission (ASIC) under the market integrity rules
- trustees, other than trustees of a unit trust, in relation to a transaction that relates to shares in a company that are not listed for quotation in the official list of an Australian financial market
- transactions in respect of employee share scheme interests where any entity is required to provide information to the Commissioner in relation to the transaction pursuant to Division 392 of Schedule 1 to the *Taxation Administration Act 1953*
- transactions by small unit trusts with fewer than 10 investors and less than AUD 5 million in assets, and
- trustees, other than trustees of a unit trust, if they are not required to hold an Australian Financial Services Licence and hold total assets of less than AUD 5 million in all trusts of which they are the trustee.

ATO reviews of draft effective lives

The ATO has started a [review of the assets used in wholesaling industries](#) with a view to making new effective life determinations. In addition, the ATO has also released the draft effective lives of assets used in the [butter manufacturing industry](#) and the [ice cream manufacturing industry](#).

ALP's negative gearing and capital gains tax policies

Treasury has released [documents](#) under Freedom of Information requests relating to the Australian Labor Party's negative gearing and capital gains tax policies and their impact on housing supply.

Senate committee hearing into ATO's annual report

The [transcript](#) of the public hearing of the Senate Standing Committee on Tax and Revenue's '[Inquiry into the 2016-17 Annual Report of the ATO](#)' is now available. The Commissioner of Taxation and the Inspector-General of Taxation appeared and discussed, among other things, transparency of tax debt law, ATO debt collection and handling of disputes.

Tathra bushfires declared disaster for tax purposes

The Government has [declared](#) the March 2018 Tathra bushfires a disaster for the purposes of establishing Australian disaster relief funds. Donations to Australian disaster relief funds established to provide relief in the aftermath of the bushfires will be tax deductible for a period of two years from 18 March 2018.

IGT presentation on revenue authority scrutiny

The Inspector-General of Taxation (IGT) gave a [presentation](#) to the 13th International Conference on Tax Administration in which he discussed revenue authority scrutiny in the age of the sharing economy.

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