



Tax highlights

1 September 2014

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Key developments this week

ATO Consultation Hub – update: The ATO's [Consultation Hub](#) lists the progress of those tax and administration matters on which the ATO consults with the community, industry and the tax profession. The following [Compliance](#) and [Administration](#) matters are being considered and have progressed in the past month:

- *The feasibility of use of External Compliance Assurance Process (ECAP) for basic ATO assurance work* (i.e. use of registered company auditors): The first ECAP Steering Group meeting was held on 5 August 2014 with a focus on the operation of the pilot program and its ultimate evaluation
- *Review of ATO pre-lodgment compliance review (PCR) product:* The high level design was tabled at the Large Business Liaison Group (LBLG) meeting on 11 August 2014. A further workshop with some members of the LBLG and the Corporate Tax Association will be held to address specific issues, with a view to finalising the design and implementing the reinvented PCR
- *Small Business Newsroom:* The Small Business Newsroom was launched on 8 August 2014. User consultation with industry representatives and small business is continuing, and future enhancements will be made based on this consultation
- *Improving private groups and wealthy individuals' client experience with the ATO:* The goal is to co-design and user test improvement initiatives particularly in relation to engagement, transparency, certainty and intermediaries. The first workshop was held 26 August 2014
- *Guidance for US Foreign Account Tax Compliance Act (FATCA):* the ATO will release the second version of guidance documentation in September 2014 for continued consultation that incorporates industry feedback
- *NEW: Data Matching: Reporting of taxable government grants and other specified payments:* The ATO will consult with government entities and software developers on the design and implementation of the taxable government grants and other specified payments reporting frameworks with a view to minimising compliance costs. The measure requiring this reporting is due to commence on 1 July 2016
- *NEW: Publishing risk factors for small-to-medium enterprises (SMEs) and wealthy individuals:* The ATO will refine the risk hypothesis and indicators for SMEs and wealthy individuals for publication on the ATO website by December 2014. This consultation is as a

result of a recommendation of the Inspector-General of Taxation in his [report](#) of the *Review into aspects of the Australian Taxation Office's use of compliance risk assessment tools* that the ATO publish additional information in respect of certain risk factors

- *Tailored Business Returns project – consultation with software developers*: Consultation is in progress on proposed changes to the *Company and Partnership Tax Returns* for 2015
- *Business viability assessment tool*: Given there are a number of other initiatives being progressed which will influence this project, consideration is being given to when and how this project should move forward
- *Settlement code*: It is anticipated that the new Code of Settlement will be released in September 2014
- *ABN proof of identity requirements for non-individual entities non-resident associate issues*: The final proposal re adopting different proof of identity requirements for non-resident associates in ABN applications is currently under development and was expected to be completed by the end of August 2014.

No further progress has been reported in relation to the consultation being undertaken for the Tax Secrecy and Transparency legislation project which is considering how limited tax information of certain entities which the Commissioner must make publically available will be published.

Further ATO Consultation Hub news in respect of [Business tax](#), [Superannuation](#), [Indirect tax](#) and [International tax](#) matters are also reported in this issue of Tax highlights.

Comment: The ATO Consultation Hub co-ordinates consultation between the ATO and relevant stakeholders on taxation and superannuation matters. Of particular interest is consultation in respect of Compliance and Administration as these matters increasingly represent initiatives originating from the ATO around new ways to interact with taxpayers. The ECAP project (using external auditors to undertake basic assurance work for the ATO) is a substantial shift from existing ATO audit practice. Many of the software/IT measures will ultimately impact a wide range of taxpayers regarding how and what they will lodge as tax return reporting in the future. New ways of communicating are being implemented with the recent launch of the Small Business Newsroom, and for private groups and wealthy individuals, a web-based online resource is being progressed. These are all signs of an ATO moving to reinvent itself as more commercial, more digital and more responsive.

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[Weekly tax news](#)

[Business tax](#)

Legislation expected to be debated in Parliament this week: According to this week's House of Representatives [draft legislation program](#), the House is scheduled to debate [International Tax Agreements Amendment Bill 2014](#) and [Tax and Superannuation Laws Amendment \(2014 Measures No. 4\) Bill 2014](#) this week.

Last week, the Senate draft legislation program indicated that [Tax Laws Amendment \(Research and Development\) Bill 2013](#) (the R&D Bill) would be debated in the Senate, but it appears that this did not eventuate. This week's [draft legislation program](#) indicates that the R&D Bill is again scheduled for debate in the Senate, with the Greens Senator Christine Milne indicating that the Greens propose to

introduce [amendments](#) to the R&D Bill to reject the Government measure to deny access to the R&D incentive for companies with aggregated assessable income of \$20 billion or more and re-introduce the proposal for quarterly refunds for small and medium size businesses eligible for a R&D tax incentive refund.

The [International Tax Agreements Amendment Bill 2014](#) is also scheduled for debate in the Senate this week, subject to passage through the House of Representatives.

Deregulation – Treasury Legislative Amendment Bill: The Government has [released](#) an exposure draft and draft explanatory memorandum on proposed amendments relating to taxation, superannuation and shareholdings in certain financial sector companies as part of the Government's deregulation agenda. Submissions are due by 17 September 2014.

Inquiry into tax disputes - transcript of hearing available: The [transcript](#) of the public hearing that was held in Sydney by the House of Representatives Standing Committee on Tax and Revenue on 18 August 2014 as part of its [Inquiry into tax disputes](#) has now been published. By way of background, the inquiry into tax disputes was referred to the Standing Committee by the Minister for Finance and Acting Assistant Treasurer, Mathias Cormann, on 2 June 2014. The terms of reference for the inquiry were for the Standing Committee to inquire into and report on tax disputes with particular regard to:

- collecting revenues due
- fair treatment and respect of taxpayers
- efficiency, effectiveness and transparency (from the perspective of both taxpayers and the ATO) and
- how the ATO supports the outcomes of efficiency, effectiveness and transparency through the use and publication of performance information.

The Committee also requested the Inspector-General of Taxation to undertake a review of tax disputes relating to large business and high wealth individuals. The Government intends that the Committee's work will contribute to the Government's broader agenda on tax reform and should be seen in the context of the Government's White Paper on tax. In addition to the hearing held in Sydney, the Standing Committee also recently held [hearings](#) in Melbourne and Canberra.

Professional practices – guidance on anti-avoidance rules: The ATO has [released](#) guidance on the risk of the application of the general anti-avoidance provisions to the allocation of profits from a professional firm carried on through a partnership, trust or company, where the income of the firm is not personal services income.

Effective life review – assets in rigid and semi-rigid polymer product manufacturing industry: The ATO is [seeking](#) industry participation in a review of assets used in the rigid and semi-rigid polymer product manufacturing industry in order to make new effective life determinations for tax depreciation purposes.

ATO Public Rulings Program – Business tax: The ATO has updated its Public Rulings Program [as at 21 August 2014](#). The following draft tax determinations (TDs) are scheduled for release in the next two months:

- Personal services income: Is a payment received by a personal services entity from a service acquirer during a period the service provider is not providing services to the service acquirer until further called upon, personal services income within the meaning of subsection 84-5(1)

of the *Income Tax Assessment Act 1997* (ITAA 1997)? Planned issue date 17 September 2014

- Employee share schemes: Where a right to acquire a beneficial interest in a share is granted subject to shareholder approval, is the right an 'indeterminate right' within the meaning of subsection 83A-340(1) of the ITAA 1997? Planned issue date 8 October 2014.

The following final taxation ruling was scheduled to be released on 26 August 2014. This release has now been delayed:

- Petroleum resource rent tax: What does 'involved in or in connection with exploration for petroleum' mean?

ATO Consultation Hub – TOFA, capital allowances, trusts, partnerships: The ATO's [Consultation Hub](#) lists the progress of those tax and administration matters on which the ATO consults with the community, industry and the tax profession. The following matters are being considered and have been progressed in the past month:

- **Taxation of financial arrangements (TOFA):** *Application of Division 230 (TOFA provisions) to securitisation transactions* – Work is currently being undertaken in respect of bad debts and the application of sections 26BB and 70B of the *Income Tax Assessment Act 1936* (ITAA 1936) in respect of securitisation arrangements
- **Capital Allowances:** *NEW* – Reviews of the effective life of assets used in the following industries are currently in progress:
 - Coal seam gas extraction industry
 - Rigid and semi rigid polymer manufacturing industry
 - Waste services industry
 - Surveying and mapping services industry
 - Other machinery and equipment repair and maintenance industry
 - Professional photographic services industry
 - Table B of the Commissioner's schedule.
- **Trusts:**
 - *Small business capital gains tax concessions and unpaid present entitlements* – Further consultation had been deferred pending the outcome of an Administrative Appeals Tribunal decision that was handed down on 4 August 2014 ([Pope and Commissioner of Taxation \[2014\] AATA 532](#) – see [Tax highlights 11 August 2014](#)). It is anticipated that consultation will resume in September 2014
 - *Australian custodians' tax return obligations in respect of trustee liabilities under section 98 of the ITAA 1936* – The Australian Custodial Services Association is currently considering the ATO's draft proposal to streamline lodgment and processing procedures for collecting custodians' section 98 liabilities.
- **Limited partnerships:** *Guidance on ensuring that a partner in a limited partnership is not subject to double taxation* – A draft summary of the guidance is currently being reviewed by the ATO participants and should be available to industry representatives in September 2014.

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Employment taxes

FBT – class ruling issued on TomTom Telematics: [CR 2014/69](#) applies to employers who use the TomTom Telematics System for car log book record and odometer record keeping requirements.

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Individuals and family groups

Early retirement scheme – class ruling – Essential Water: The ATO has issued [CR 2014/67](#) applicable to employees who receive a payment under the Essential Water early retirement scheme.

Retirement dividend – class ruling – Avant Mutual: The ATO has issued [CR 2014/68](#) on the income tax consequences of the receipt of a Retirement Reward Dividend by members of Avant Mutual Group Limited.

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Superannuation

ATO Consultation Hub – Superannuation: The following [Superannuation](#) matters are being considered and have progressed in the past month:

- *Apportionment of expenses incurred by a superannuation entity only partly in gaining its assessable income:* Consultation is in progress
- *Superannuation excess contributions tax – contributions reserving:* The ATO has agreed to look at the processes and options discussed at the meeting with the Tax Institute on 24 July 2014. Form options are planned to be developed and available in mid-September with further consultation to take place following their release.

Self-managed superannuation fund (SMSF) newsletter: The ATO has [published](#) its quarterly newsletter to SMSF trustees and administrators.

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Indirect taxes

ATO Public Rulings Program – GST rulings: The ATO has updated its Public Rulings Program [as at 21 August 2014](#). The following draft ruling is scheduled for release later this month:

- GST: the meaning of the terms 'passed on' and 'reimburse' for the purposes of Division 142 of the *A New Tax System (Goods and Services Tax) Act 1999*? Planned issue date 24 September 2014.

The following final ruling is scheduled for release on 1 October 2014:

- GST: motor vehicle incentive payments

GST Advisory Group minutes: The ATO has [published](#) the minutes of the meeting for the GST Advisory Group held on 24 June 2014. Matters discussed included the GST tax litigation landscape.

ATO Consultation Hub – Indirect tax: The following [Indirect taxes](#) matters are being considered and have progressed in the past month:

- *Financial supplies guidance products:* The ATO accepts that industry would face difficulties in practically applying and administering the initial draft ATO guidance containing ‘tests’ which taxpayers may use to determine whether foreign exchange products and supplies of brokerage services involving overseas securities or futures are GST free (the development of guidance products on these issues is currently listed in the [ATO Rulings Program](#)). The ATO is further developing its position in light of the feedback provided
- *NEW: Grape wine determination:* Preliminary meetings with representatives of the wine industry have taken place to examine wine making processes and the industry definition of wine with a view to developing a tax determination on the meaning of ‘grape wine’. Further consultation is expected in September 2014.

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[State and Territory taxes](#)

Tasmania: 2014-15 State Budget: The Tasmanian Government announced the [2014-15 State Budget](#) on 28 August 2014. Taxation-related announcements were limited to the following assistance measures:

- Introduction of the fourth Employee Incentive Scheme Payroll Tax Rebate (EISPR4), to provide a payroll tax rebate of up to two years for private sector employers who create additional, eligible jobs between 1 July 2014 and 30 June 2015 and maintain them until at least 30 June 2016
- Extension of the First Home Builder Boost (FHBB) scheme beyond 31 December 2014. The FHBB is currently \$30,000. Between 1 January 2015 and 30 June 2015, the FHBB will be \$20,000; reducing to \$10,000 from 1 July 2015 onwards.

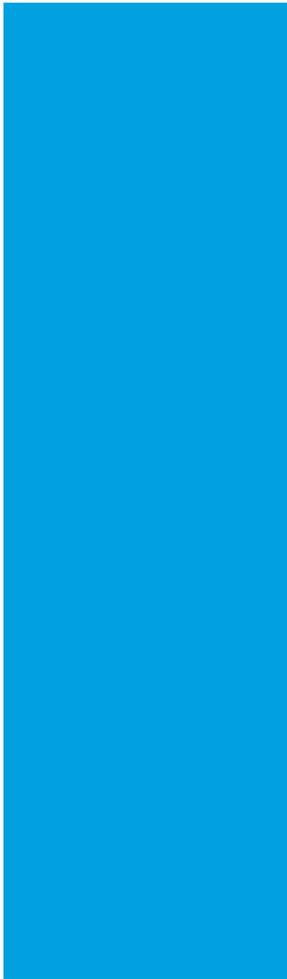
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[International tax](#)

ATO Public Rulings Program – International rulings: The ATO has updated its Public Rulings Program [as at 21 August 2014](#). The following final rulings are scheduled for release in the next two months:

- Transfer pricing: Application of section 815-130 of the ITAA 1997 (ATO’s power to reconstruct transactions between related parties). Planned issue date 29 October 2014
- Transfer pricing: Documentation requirements. Planned issue date 29 October 2014.

Sovereign immunity private rulings – supporting information: The ATO has [released](#) a list of documents and information required to accompany a private ruling request by an entity seeking to claim exemption from Australian tax for Australian-sourced income and gains under the doctrine of sovereign immunity.



ATO Consultation Hub – International: The following [International](#) matters are being considered and have progressed in the past month:

- *Application of new transfer pricing laws (Division 815):* The Division 815 Technical Working Group met on 31 July 2014 to discuss Draft Taxation Ruling [TR 2014/D3](#), with a follow-up meeting on 25 August 2014. The focus of this meeting was on the documentation package of draft [TR 2014/D4](#) and draft Practice Statements [PS LA 3673](#) and [PS LA 3672](#). The next meeting is to be held on 14 October 2014 to review the body of work and look at the next priorities for the forward work program
- *Attribution and inter-branch derivatives:* The ATO is currently making final changes to guidelines prior to publication on their website
- *Application of Subdivision 820-D to authorised deposit-taking institutions and its interaction with the consolidation regime and Australian Prudential Regulation Authority's prudential standards:* There has been further consultation on the arm's-length capital amounts method with affected taxpayers, and the ATO is awaiting feedback.

Dbriefs Bytes: Deloitte Dbriefs Bytes is a short weekly video summary of the significant international tax developments impacting the Asia Pacific region – click to view the latest [Dbriefs Bytes](#).

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