



# **TAX ON THE COUCH TOPICS**

## **HOT TOPICS – MONTH-BY-MONTH**

### **January/February 2021 Hot Topic**

ATO's administrative relief for Division 7A loan repayments due in the 2020 income year

### **March 2021 Hot Topic**

Tax issues due to COVID-19 travel bans (individual tax residency)

### **April 2021 Hot Topic**

Update on FBT and COVID-19 issues

### **May 2021 Hot Topic**

Refresher on the Small Business Restructure Roll-over concession

### **June 2021 Hot Topic**

2021/22 Federal Budget

### **July 2021 Hot Topic**

Changes to the 2021 Business Returns

### **August 2021 Hot Topic**

Compliance issues for the non-commercial loss ('NCL') rules

### **September 2021 Hot Topic**

The conversion of pre-CGT assets into post-CGT assets – Division 149

### **October 2021 Hot Topic**

Self-managed superannuation funds and GST

### **November 2021 Hot Topic**

The latest developments on 'vacant land' deduction restrictions

### **December 2021 Hot Topic**

SMSFs and cryptocurrency

# **ATO UPDATES/SPECIAL TOPICS – MONTH-BY-MONTH**

## **January/February 2021 ATO Update**

ATO's administration of the new JobMaker Hiring Credit Scheme (with Deputy Commissioner, James O'Halloran)

## **March 2021 ATO Update**

The new temporary full expensing measures (with Assistant Commissioner, Kasey Macfarlane)

## **April 2021 ATO Update**

The new temporary loss carry-back measures (with Assistant Commissioner, Amy James-Velagic)

## **May 2021 ATO Update**

The Australian Business Register and the new Director ID regime (with Assistant Commissioner, Martin Jacobs)

## **June 2021 ATO Update**

The ATO's Tax Time priorities (with Assistant Commissioner, Tim Loh)

## **July 2021 ATO Update**

The Taxable Payments Reporting System (Assistant Commissioner, Peter Holt)

## **August 2021 ATO Update**

Personal Services Income (Assistant Commissioner, Anthony Marvella)

## **September 2021 ATO Update**

SMSF issues (Acting Assistant Commissioner, Kellie Grant)

## **October 2021 ATO Update**

Financial Crime Program (Acting Assistant Commissioner, Aislinn Walwyn)

## **November 2021 ATO Update**

Single Touch Payroll Update (Assistant Commissioner, Jason Lucchese)

## **December 2021 ATO Update**

Claiming travel expenses (Assistant Commissioner, Adrian O'Grady)

## **ALL TOPICS COVERED**

### **January/February 2021**

#### **Monthly Legislative Update**

- Annual legislative recap pending first 2021 sittings
- Treasury Laws Amendment (2020 Measures No. 6) Act 2020
- Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020

#### **Monthly Rulings Update**

- TD 2021/1 – Income tax: value of goods taken from stock for private use for the 2020-21 income year
- PCG 2020/3 – Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19
- TA 2020/5 – Structured arrangements that provide imputation benefits on shares acquired where economic exposure is offset through use of derivative instruments
- SPR 2020/D3 – Superannuation Data and Payment Standards (Release Authorities, and SMSF Rollovers) Amendment 2020
- STP 2020/D4 – Taxation Administration - Single Touch Payroll - Amounts to be Notified Determination 2020

#### **Monthly Case Update**

- Gennai and FCT [2020] AATA 4667
- DCT v APSC Pty Ltd (Deregistered) [2020] FCA 1591
- Apted and FCT [2020] AATA 5139

#### **Other Developments**

- Cash Flow Boost and CGT event E4
- Discussion paper – Education and training expense deductions for individuals
- ATO to release further guidance for SMSF auditors on independence standards
- TPB compliance matters – ‘high-risk’ tax practitioners

#### **Hot Topic**

- ATO’s administrative relief for Division 7A loan repayments due in the 2020 income year

#### **ATO Update – ATO**

- ATO’s administration of the new JobMaker Hiring Credit Scheme (with Deputy Commissioner, James O’Halloran)

### March 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (2021 Measures No. 1) Bill 2021
- Treasury Laws Amendment (Your future, Your Super) Bill 2021

#### Monthly Rulings Update

- **Exposure Draft TPB(EP) D43/2021** - Continuing professional education policy requirements for registered tax and BAS agents
- **Exposure Draft TPB(EP) D44/2021** - Continuing professional education policy requirements for registered tax (financial) advisers
- **TR 2021/D1** - Income tax and fringe benefits tax: employees: accommodation and food and drink expenses, travel allowances, and living-away-from-home allowances
- **TR 2021/1** - Income tax: when are deductions allowed for employees' transport expenses?
- **PCG 2021/D1** - Determining if allowances or benefits provided to an employee relate to travelling on work or living at a location - ATO compliance approach

#### Monthly Case Update

- S & T Income Tax Aid Specialists Pty Ltd Trading as Alpha Tax Aid and Tax Practitioners Board [2021] AATA 161
- ZCSB and Commissioner of Taxation (Taxation) [2021] AATA 138

#### Other Developments

- STP update – Changes to STP reporting concessions
- An update on the ATO's interim solution for paper activity statements
- Indexation of the transfer balance cap - potentially up to \$1.7 million

#### Hot Topic

- Tax issues due to COVID-19 travel bans (individual tax residency)

#### ATO Update – ATO

- The new temporary full expensing measures (with Assistant Commissioner, Kasey Macfarlane)

### April 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (2021 Measures No. 2) Bill 2021

#### Monthly Rulings Update

- **TR 2021/D2** – Income tax – personal services income and personal services business
- **Draft Practical Compliance Guideline PCG 2021/D2** – Allocation of professional firm profits - ATO compliance approach
- **TD 2021/3** – Fringe benefits: LAFHA - reasonable amounts for meals
- **TD 2021/4** – FBT: cents per kilometre rate - vehicles other than cars

#### Monthly Case Update

- ZBFF and FCT [2021] AATA 275
- Khan and FCT [2021] AATA 367
- Federal Commissioner of Taxation v Travelex Limited [2021] HCA 8

#### Other Developments

- Treatment of voluntary JobKeeper voluntary repayments
- Government COVID-19 support status report
- ATO TPAR reports – more than 60,000 businesses have yet to lodge
- Ombudsman expresses concern in relation to \$21 billion small business ATP debts

#### Hot Topic

- Update on FBT and COVID-19 issues

#### ATO Update – ATO

- The new temporary loss carry-back measures (with Assistant Commissioner, Amy James-Velagic)

### May 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (2020 Measures No.4) Bill 2020
- Exposure draft legislation: FBT exemption for retraining
- Exposure draft legislation: “Granny flat” arrangements

#### Monthly Rulings Update

- **TR 2019/D5** – application deferred - FBT – Car parking fringe benefits
- **PCG 2020/5** – modified – SMSF and non-arm’s length expenditure (‘NALE’)
- **PS LA 2021/1** – Promoter penalty laws
- **PS LA 2021/2** – The ATO’s administrative approach to the extension of the Commissioner’s discretion to retain tax refunds

#### Monthly Case Update

- Watts v FCT [2021] AATA 785
- Le v FCT [2021] FCA 303
- Coronica v FCT [2021] AATA 745

#### Other Developments

- Use of Client TFNs in emails – TPB(PN) 4/2021
- Use of electronic documents and communications
- ATO updated its Auditor Independence Guidance for approved SMSF auditors

#### Hot Topic

- Refresher on the Small Business Restructure Roll-over concession

#### ATO Update – ATO

- The Australian Business Register and the new Director ID regime (with Assistant Commissioner, Martin Jacobs)

### June 2021

#### Monthly Legislative Update

- Private Health Insurance Amendment (Income Thresholds) Bill 2021
- Exposure Draft – Reducing red tape for superannuation funds – ECPI measures
- Legislative Instrument – Corporations (Transitional) Director Identification Number Extended Application Period 2021 and Legislative Instrument – Corporations (Aboriginal and Torres Strait Islander) (Transitional) Director Identification Number Extended Application Period 2021

#### Monthly Rulings Update

- **PS LA 2020/1** – updated – Commissioner's discretion to allow further time for an entity to hold an ABN or provide notice to the Commissioner of assessable income or supplies
- **TR 2002/5** – updated – Income tax: Permanent establishment - What is 'a place at or through which [a] person carries on any business' in the definition of permanent establishment in subsection 6(1) of the *Income Tax Assessment Act 1936*?
- **TD 2021/5** – Income tax: a receiver's obligation to retain money for post-appointment tax liabilities under section 254 of the *Income Tax Assessment Act 1936*

#### Monthly Case Update

- Dessent v FCT [2021] AATA 1206
- Mussalli v FCT [2021] FCAFC 71
- Spencer v FCT [2021] AATA 1106
- Hill v Zuda Pty Ltd [2021] WASCA 59

#### Other Developments

- ATO and TPB guidance on verifying a client's identity
- ATO warns about "Copying and pasting" claims this tax season

#### Hot Topic

- 2021/22 Federal Budget

#### ATO Update – ATO

- The ATO's Tax Time priorities (with Assistant Commissioner, Tim Loh)

### July 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (More Flexible Superannuation) Act 2021
- Treasury Laws Amendment (Self Managed Superannuation Funds) Act 2021
- Treasury Laws Amendment (Your Future, Your Super) Act 2021
- Treasury Laws Amendment (2021 Measures No. 4) Bill 2021

#### Monthly Rulings Update

- **TR 2021/2** – Fringe benefits tax: car parking benefits
- **LCR 2021/D1** – Temporary full expensing
- **TD 2021/D1** – Income tax: when working out your aggregated turnover, are the relevant annual turnovers of entities connected with you, or entities that are affiliates of yours, determined by reference to your income year?

#### Monthly Case Update

- Accountant's company not entitled to cash flow boost – VNBM and Commissioner of Taxation [2021] AATA 1626
- Profit from subdividing and selling rental property was ordinary income – McCarthy and Commissioner of Taxation [2021] AATA 1511
- Term put in partnership agreement to avoid tax meant agreement invalid – Cobanov v Josifovski (No 2) [2021] ACTSC 111
- Music teacher an "employee", not an independent contractor – Olias Pty Ltd as trustee for the Storer Family Trust and Commissioner of Taxation [2021] AATA 1524

#### Other Developments

- New self-managed superannuation fund ('SMSF') independent auditor's report (IAR)
- Extension of time to make minimum yearly repayments on Division 7A loans
- Temporary Australian Government Assistance for Workers in COVID hotspots

#### Hot Topic

- Changes to the 2021 Business Returns

#### ATO Update – ATO

- The Taxable Payments Reporting System (with Assistant Commissioner, Peter Holt)



### August 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (2021 Measures No 5) Bill 2021
- Draft leg - Virtual AGMs and digital signature rules to be made permanent - Treasury Laws Amendment (Measures for Consultation) Bill 2021: Use of technology for meetings and related amendment
- Implementing a reporting regime for sharing economy platform providers
- Superannuation Legislation Amendment (Superannuation Drawdown) Regulations 2021
- Treasury Laws Amendment (Self Managed Superannuation Funds) Regulations 2021

#### Monthly Rulings Update

- TR 2021/3 – Effective life of depreciating assets from 1 July 2021
- TD 2021/6 – Reasonable travel and overtime meal allowance amounts for 2022
- Addendum to TD 93/145 Depreciation: calculating the residual value of leased items
- UPEs – sub-trust arrangements maturing in 2021 (options 1 and 2) – PCG 2017/13 updated
- TR 2021/D4 – Income tax: royalties – character of receipts in respect of software

#### Monthly Case Update

- Appeals update on *Peter Greensill Family Co Pty Ltd (Trustee) v FCT* [2021] FCAFC 99 and *FCT v Addy* [2020] FCAFC 135
- *Munkayilar v FCT* [2021] AATA 1839
- *SYRF and FCT* [2021] AATA 1845
- *Smith and FCT* [2021] AATA 1851

#### Other Developments

- Setting ATO digital communication preferences for clients
- Closely held employees – STP update
- ATO data-matching program for lifestyle assets

#### Hot Topic

- Compliance issues for the non-commercial loss ('NCL') rules

#### ATO Update – ATO

- Personal Services Income (with Assistant Commissioner, Anthony Marvello)

### September 2021

#### Monthly Legislative Update

- Treasury Laws Amendment (2021 Measures No 6) Bill 2021
- Treasury Laws Amendment (COVID-19 Economic Response No.2) Bill 2021
- ESAS – Treasury consultation and exposure draft legislation

#### Monthly Rulings Update

- CRT Alert 008/2021: Re-contribution of COVID-19 early release amounts
- TR 2021/4: Income tax and fringe benefits tax: employees: accommodation and food and drink expenses travel allowances and living-away-from-home allowances
- TR 2015/D5 Income tax: expenses associated with holding vacant land
- LCR 2021/2: Superannuation funds: Expenditure incurred under a non-arm's length arrangement

#### Monthly Case Update

- *Allen and FCT* [2021] AATA 2765 and *Allzamd Trust and FCT* [2021] AATA 2767
- *Hartley and Commissioner of Taxation* [2021] AATA 2622

#### Other Developments

- TPB Update – FAQ on Tax Agents working on State and Territory grant issues
- Impact of compensation payments on Superannuation caps

#### Hot Topic

- Conversion of pre-CGT assets into post-CGT asset – Division 149

#### ATO Update – ATO

- SMSF issues (with Acting Assistant Commissioner, Kellie Grant)

### October 2021

#### Monthly Legislative Update

- Paid Parental Leave Amendment (COVID-19 Work Test) Bill 2021
- Treasury Laws Amendment (2021 Measures No 7) Bill 2021
- **Exposure draft legislation** – Using technology to hold meetings and sign and send documents
- **Treasury consultation paper** – Review of insolvency safe harbour for company directors: consultation paper

#### Monthly Rulings Update

- **Tax Payer Alert – TA 2021/2** : Disguising income as gifts or loans from related overseas entities
- **Tax Payer Alert – TA 2021/3** : Questionable products leading to excess fuel credits

#### Monthly Case Update

- *Mfula v FC of T* [2021] AATA 3067
- *WYPF v FC of T* [2021] AATA 305
- *FC of T v Bosanac* [2021] FCAFC 158

#### Other Developments

- IGOT update – ATO disclosure of business tax debts
- COVID-19 payments and work test super contributions
- Temporary relief for financial advisers on ASIC recovery levies
- COVID-19: Deductions for expenses incurred by businesses receiving non-taxable grants
- New requirement to request stapled super fund details for employees

#### Hot Topic

- Self-managed superannuation funds and GST

#### ATO Update – ATO

- Financial Crime Program (Assistant Commissioner, Aislinn Walwyn)

### November 2021

#### Monthly Legislative Update

- Second round of miscellaneous amendments to Treasury portfolio laws 2021 – Exposure draft *Treasury Laws Amendment (Measures for Consultation) Bill 2021: Miscellaneous and Technical Amendments No. 2*
- Corporations (Director Identification Numbers – Transitional Application Period) Instrument 2021 (F2021L01391)
- Treasury Laws Amendment (2021 Measures No. 2) (Deductible Gift Recipients – Extended Application Date) Instrument 2021 (F2021L01418)

#### Monthly Rulings Update

- LCR 2019/5A1 – Addendum: Base rate entities and base rate entity passive income
- PCG 2020/3 – Update: Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19
- TD 2021/D5 – Income tax: when are you genuinely restricted from immediately disposing of an interest provided under an employee share scheme?
- TD 2021/D2 – Income tax: aggregated turnover – application of the 'connected with' concept to partnerships, foreign hybrids and non-entity joint ventures
- TD 2021/D3 – Income tax: aggregated turnover – application of the 'connected with' concept to corporate limited partnerships
- TD 2021/D4 – Income tax: aggregated turnover – application of the public entity exception to the indirect control test
- TD 2021/7 – Income tax: aggregated turnover – calculating the annual turnover of a connected entity or affiliate with a different accounting period to you

#### Monthly Case Update

- *Wood v Commissioner of Taxation* [2021] FCA 1236
- *Commissioner of Taxation v Auctus Resources Pty Ltd* [2021] FCAFC 39
- *WYPF and Commissioner of Taxation (Taxation)* [2021] AATA 3050

#### Other Developments

- TPB releases new guidance on supervisory arrangements
- Support extended for tax practitioners affected by Coronavirus (COVID-19)
- ATO extends COVID-19 relief for SMSF trustees to 2021/22 financial year

#### Hot Topic

- The latest developments on 'vacant land' deduction restrictions

#### ATO Update – ATO

- Single Touch Payroll Update (Assistant Commissioner, Jason Lucchese)

### December 2021

#### Monthly Legislative Update

- *Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Bill 2021*
- *Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*
- Exposure Draft Legislation: *'Improving the technology neutrality of Treasury portfolio laws'*

#### Monthly Rulings Update

- TD 2021/8 – Income tax: value of goods taken from stock for private use for the 2021-22 income year
- TA 2021/4 – Structured arrangements that avoid luxury car tax

#### Monthly Case Update

- *Addy v Commissioner of Taxation [2021] HCA 34*
- *Sibai v Commissioner of Taxation [2021] FCA 1353*
- *Clough Limited v Commissioner of Taxation [2021] FCAFC 197*
- *Vac Corporate Pty Ltd and Tax Practitioners Board [2021] AATA 4098*
- *Dezfoolian and Commissioner of Taxation [2021] AATA 3991*

#### Other Developments

- Director IDs now available online for 2.7 million Australians
- From 1 November 2021 'Your Super Follows You'
- Transitioning to STP Phase 2 reporting from 1 January 2022
- 2018-19 Commissioner of Taxation Annual Report (October 2021)

#### Hot Topic

- SMSFs and cryptocurrency

#### ATO Update – ATO

- Claiming travel expenses (Assistant Commissioner, Adrian O'Grady)