Year end wrap 2025

Robyn Jacobson, The Tax Institute ⁝ 16-20 minutes ⁝ 05/06/2025

As the end of the financial year (EOFY) approaches, it is essential practitioners are across the latest tax and superannuation measures when considering their clients' affairs to ensure they are best prepared for the end of 2024–25 and the start of 2025–26.

Individuals

Tax cuts

The revised Stage 3 tax cuts took effect on 1 July 2024 and apply for 2024–25 and 2025–26. The changes:

- reduced the 19% tax rate to 16%;
- reduced the 32.5% tax rate to 30%;
- increased the threshold above which the 37% tax rate applies from $120,000 to $135,000; and
- increased the threshold above which the 45% tax rate applies from $180,000 to $190,000.

Employers should ensure they are using the correct PAYG withholding tables for salaries and wages paid on or after 1 July 2024.

Further tax cuts announced as part of the Federal Budget 2025–26 were promptly legislated a day before the 2025 Federal election was called. However, Australians won't feel the relief until after 1 July 2026 and 1 July 2027. Tax liabilities and income tax returns for 2024–25 and 2025–26 will not be impacted by these changes, which reduce the:

- 16% rate to 15% from 1 July 2026; and
- 15% rate to 14% from 1 July 2027.

Work-related expenses

Some important updates to be aware of are:

- Car expenses — the 2024–25 cents per kilometre rate is 88 cents, and an annotation to LI 2024/19 notes that the rate remains unchanged for 2025–26.
- Working from home (WFH) expenses — PCG 2023/1 was updated to increase the rate per hour worked from home under the fixed rate method from 67 cents to 70 cents from 1 July 2024. The ATO will not apply any compliance resources to review

a deduction for WFH expenses if they are claimed at the rate of 70 cents per hour for 2024–25, and a contemporaneous record of actual hours worked from home is kept.

Businesses and organisations

Car limits

The definition of a fuel-efficient car for luxury car tax (LCT) purposes has been updated with effect from 1 July 2025. The change reduces the maximum fuel consumption for a car to be considered fuel-efficient from 7 litres per 100 kilometres to 3.5 litres per 100 kilometres.

The car limit and LCT thresholds have been updated for 2024–25.

Instant asset write-off

Enabling legislation has extended the $20,000 small business instant asset write-off (IAWO) for another 12 months to 2024–25. This allows small businesses with an aggregated turnover of less than $10 million to immediately deduct the cost of eligible depreciating assets costing less than $20,000 that are first used or installed ready for use for a taxable purpose by 30 June 2025.

The Government has announced that it will extend the $20,000 IAWO for a further 12 months, to 30 June 2026. This extension has yet to be legislated, leaving small businesses uncertain again about the final form of the IAWO for 2025–26 and when it will become law.

Reporting requirements for not-for-profit organisations

Under reporting requirements, non-charitable NFPs with an active ABN must submit an annual self-review return (SRR) to assess their eligibility for income tax exemption. The SRR for 2024–25 must be lodged by 31 October 2025 and can be submitted through Online services for business or by a registered tax agent.

An NFP that does not meet the eligibility criteria for income tax exemption will be considered taxable and is not required to lodge the SRR. Instead, it must lodge an income tax return or notify the ATO if a return is not necessary.

Division 7A and section 100A

Loan repayments

Loans made by private companies to their shareholders (or associates of those shareholders) during 2024–25 must be fully repaid or placed on Division 7A complying loan terms before the lodgment day of the company’s 2025 tax return, to avoid being treated as a deemed dividend.

Minimum yearly repayments (MYRs) are required by 30 June 2025 for complying loans made in 2023–24 and earlier income years. When purporting to make a MYR using a journal entry to pay a dividend, ensure that:

- the dividend is declared by 30 June 2025 (evidenced by a directors' resolution that meets the requirements of the Corporations Act 2001); and
- a distribution statement is issued to the shareholder by 31 October 2025.

Failure to conform to the 'principle of mutual set-off' as set out in MT 2050 may result in the purported payment not being an effective MYR. This could give rise to a deemed dividend under Division 7A, as well as penalties under other laws.

Consider whether the Commissioner's discretion under section 109RB may be available to disregard a deemed dividend that has already arisen.

Unpaid present entitlements

Clients who control corporate beneficiaries that have an unpaid present entitlement (UPE) to a share of income from an associated trust will be closely watching the outcome of the Commissioner's special leave application to appeal the Full Federal Court's (FCAFC) decision in Commissioner of Taxation v Bendel [2025] FCAFC 15 (Bendel). In Bendel, the FCAFC dismissed the Commissioner's appeal, finding that the UPE was not a loan under subsection 109D(3) of the Income Tax Assessment Act 1936 (ITAA 1936).

The ATO's Interim DIS, issued on 19 March 2025, states that the ATO will continue to administer the law in accordance with its published views relating to private company entitlements to trust income, as set out in TD 2022/11. The ATO does not intend to revise its current views until the appeal process is finalised.

As we wait for the High Court to decide whether it will grant or refuse the Commissioner's application for special leave, trustees need to decide whether they will distribute trust income to corporate beneficiaries for 2024–25, and if so, whether those distributions will be paid in cash or remain UPEs. Trustees and their advisers need to carefully consider the different outcomes of 'doing nothing' with the UPE (based on the FCAFC's decision in Bendel) or managing the UPE as a complying Division 7A loan (based on the ATO's position).

Possible implications under other laws, such as section 100A and Subdivision EA of Division 7A of Part III of the ITAA 1936, should also be considered.

Section 100A

Section 100A of the ITAA 1936 is an integrity rule that can apply where a beneficiary's present entitlement to trust income arose from a 'reimbursement agreement'. Where section 100A applies, the beneficiary is treated as if they were never presently entitled to the trust income, and the trustee is assessed on that share of the trust's taxable income at the rate of 47%.

A reimbursement agreement broadly means that someone other than the beneficiary has received a benefit in connection with the arrangement, and at least one of the parties entered into the agreement for a purpose of reducing tax. Arrangements entered into in the course of ordinary family or commercial dealing are excluded, but this turns on the facts and circumstances of each case. Trustees should keep records to explain the transactions that have happened. Practice Compliance Guideline PCG 2022/2 sets out the ATO's compliance approach to section 100A.

The Commissioner considers that loans managed on complying Division 7A loan terms are sufficiently 'commercial' such that the ATO will not typically seek to apply compliance resources to consider the application of section 100A to these arrangements.

Trust distributions

Trustee resolutions

Purported distributions of trust income to beneficiaries may not have their intended effect under trust law or tax law if they are not validly made by effective trustee resolutions.

When distributing trust income and/or capital, trustees should consider whether:

- the deed permits the purported distributions;
- intended beneficiaries are validly appointed under the deed;
- the trust has vested during the year;
- a family trust election (FTE) or interposed entity (IEE) is in force for the trust (see below);
- capital gains and/or franked distributions are being streamed to particular beneficiaries;
- the distributions will trigger CGT event E4, or not satisfy the requirements of the trust loss provisions or the small business CGT concessions.

Family trust elections

Some family trust distribution tax (FTDT) issues to consider include:

- distributions made by trusts that have made FTEs will attract FTDT where they are made to beneficiaries outside the family group of the individual specified in the FTE;
- distributions made by a trust, partnership or company that has made an IEE to be included in the family group of the individual specified in an FTE will attract FTDT where they are made to entities outside that family group;
- an individual beneficiary correctly returning an amount on which FTDT has been paid;
- the unlimited amendment period that applies to FTDT; and

- that the Commissioner has no discretion to ignore the application of FTDT and no power to extend the time to revoke or vary elections.

An emerging issue is the ATO denying franking credits attached to distributions made to newly incorporated corporate beneficiaries on the basis that the 45-day holding period rule (contained in former Division 1A of Part IIIAA of the ITAA 1936) is not satisfied.

Superannuation

Superannuation guarantee and employer contributions

The increased superannuation guarantee (SG) rate of 12% (up from 11.5% for 2024–25) applies to the ordinary time earnings of salaries and wages paid from 1 July 2025. This is irrespective of when the work was done or the pay period to which the payment relates.

Employers can deduct contributions in 2024–25 only if the payment is 'made' by 30 June 2025 (that is, the contribution is received by the employee's superannuation fund by that date). The ATO's free Small Business Superannuation Clearing House (SBSCH) allows eligible employers to meet their SG obligations when the payment is received by the SBSCH (this concession for SG purposes does not apply to commercial cleaning houses).

Personal contributions

Individuals seeking to deduct a personal contribution in 2024–25 need to:

- provide their fund trustee with a notice of intent to claim a deduction before the earlier of the day on which they lodge their 2025 return or 30 June 2026;
- receive a written acknowledgment of the receipt of the notice from the trustee;
- consider a range of circumstances that can invalidate a notice.

Contributions caps

The concessional contributions (CC) cap for 2024–25 is $30,000 and will remain unchanged for 2025–26. An individual can carry forward any unused CC cap amounts from 2019–20 to 2023–24 to increase their 2024–25 CC cap where their total superannuation balance (TSB) is less than $500,000 on 30 June 2024.

The non-concessional contributions (NCC) cap is $120,000 and will remain unchanged for 2025–26. An individual who exceeds their NCC cap in 2024–25 can automatically apply the 'bring-forward' rule (up to $360,000) but only where they are under 75 years throughout the whole of 2024–25. Their ability to make an NCC is also subject to their TSB on 30 June 2024.

Division 296 tax

The Government proposes to introduce a new tax from 1 July 2025, which would tax at 15% those earnings attributable to the part of an individual's TSB that exceeds $3 million (adjusted for withdrawals and contributions). The tax would be assessable to the individual, who could request a release from their fund.

There are concerns about the lack of indexation of the $3 million threshold and the inability to carry back losses against tax paid on earlier gains, but the greatest concern is the proposed taxation of unrealised gains. The proposed design of Division 296 is contrary to the fundamental principle of taxing only realised gains and requires further consultation due to its flawed design.

The enabling legislation that proposes to introduce new Division 296 into the Income Tax Assessment Act 1997 is before the Senate and will lapse immediately before the commencement of the 48th Parliament. However, it is expected that a new bill giving effect to this measure will be introduced into the Parliament.

Other superannuation measures

Superannuants should also have regard to:

- for those receiving an income stream — the pension standards that set a minimum payment amount based on their age on 1 July 2024 (or the commencement day for pensions started during 2024–25);
- for those who started a retirement phase income stream in 2024–25 for the first time — the $1.9 million general transfer balance cap (TBC) (which increases to $2 million on 1 July 2025);
- for those who started a retirement phase income stream in 2017–18 to 2023–24 — their partially indexed personal TBC;
- for those aged 67 to 74 years who seek to deduct a personal contribution — the work test or the work test exemption;
- for high-income earners whose combined Division 293 income and superannuation contributions exceed $250,000 — Division 293 tax, which taxes their CC at an additional 15%;
- for low- or middle-income earners who make a personal NCC and are aged less than 71 years at the end of 30 June 2025 — the government co-contribution of up to $500;
- for those aged 55 years or older — downsizer contributions; and
- the tax offset of up to $540 for NCC made on behalf of a spouse (married or de facto) whose income is less than $40,000.

The non-arm's length income (NALI) and non-arm's length expenditure (NALE) rules are law and apply from the 2018–19 income year. The NALE rules limit the amount of NALI that arises from NALE to a multiple of two times the difference between the actual amount of the expense incurred and the amount of the expense that might have been expected if the parties were dealing at arm's length.

Tax administration and regulation

Digital ID

The Government's Digital ID app, myGovID, was renamed in November 2024 to myID to reduce confusion with myGov. Users' login details and identity strength remain the same, and users do not need to set up a new myID or reconfirm their details. Suspicious emails or SMS containing links may be a scam.

The ATO recommends using the highest online security strength to access ATO online services through myGov or the ATO app.

No deduction for interest charges

From 1 July 2025, general interest charges (GIC) and shortfall interest charges (SIC) are no longer deductible. This is based on when the GIC or SIC assessment is raised (i.e. incurred), not when the primary tax assessment is raised. This means that GIC or SIC incurred in the 2025–26 or a later income year that relates, for example, to an income tax assessment or a GST assessment from an earlier year, is non-deductible.

The Commissioner continues to have the ability to remit interest charges, and ATO officers are expected to have regard to practice statements PS LA 2011/12 and PS LA 2006/8.

Practitioners will have noticed a tightening of the circumstances in which the ATO will remit GIC or SIC, and there are no indications this will change because these charges are non-deductible from 1 July 2025.

Code of Professional Conduct (TASA) changes

From 1 July 2025, registered tax practitioners with 100 or fewer employees must comply with new Code of Professional Conduct (Code) obligations under the Tax Agent Services (Code of Professional Conduct) Determination 2024 (Code Determination). Large practices with more than 100 employees have been required to comply with the new Code obligations since 1 January 2025.

The Code Determination sets out eight additional Code obligations for registered tax practitioners to comply with under the Tax Agent Services Act 2009 (Cth) (TASA):

1. upholding and promoting the ethical standards of the tax profession (see TPB(I) 44/2024);
2. false or misleading statements (see TPB(I) 45/2024);
3. conflicts of interest in activities undertaken for government (see TPB(I) 46/2024);
4. maintaining confidentiality in dealings with government (see TPB(I) 46/2024);
5. keeping of proper client records (see TPB(I) 47/2024);
6. ensuring TAS provided on your behalf are provided competently (see TPB(I) 48/2024);

7. quality management systems (see TPB(I) 48/2024); and
8. keeping your clients informed (see TPB(I) 49/2024).

The breach reporting rules are separate from the Code Determination and apply to breaches of the Code arising on or after 1 July 2024.

About the Author

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