COSTER GALGUT PTY LTD

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CHARTERED ACCOUNTANTS

Tax Update - June 2021

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Happy end of financial year! And what a weird year it's been - locked down but busier than ever. The regulators have also been busy with a raft of new legislation enacting current and prior year Budget measures – including a 'tit for tat' in the Senate over financial advisers and 6 member SMSFs.

This month also saw the release of a Law Companion Ruling adding much needed detail to the **temporary full expensing** rules.

We also have an extension of the COVID-19 minimum payment relief for Div. 7A loans.

Plus, the AAT case of the accountant denied a higher rate of cashflow boost and all the reasons why.

As always, we're here if you there are any questions you have!

Coster Galgut Pty Ltd

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From the ATO

Extension of Division 7A minimum payment relief

The ATO has announced that taxpayers can apply for an extension of the repayment period where they are unable to make their Division 7A annual minimum repayments by the end of the 2020-21 income year due to the ongoing effects of COVID-19.

The extension can be requested by completing a streamlined online application. As part of this process the ATO will require the borrower to confirm the shortfall amount, that the COVID-19 situation has affected them and that they are unable to pay their Division 7A annual minimum repayment as a result. If the application is approved, the ATO will advise the borrower that they will not be considered to have received an unfranked dividend. This is subject to the shortfall being paid by 30 June 2022.

This is similar to the extension which was made available for minimum repayments that could not be made by the end of the 2019–20 income year. If a taxpayer obtained the extension last year, they must make up the shortfall of the 2019–20 minimum repayment by 30 June 2021. If a taxpayer does not meet this deadline, they will need to either obtain a further extension of time for the 2019-20 minimum repayments outside the streamlined process (i.e., by contacting the ATO) or amend their 2019-20 tax return to include a dividend.

More Information

- Request to extend time to make 2020–21 minimum yearly repayments for COVID-19 affected borrowers under section 109RD

Tax agent 85% lodgement benchmark

The ATO has indicated that failing to meet the 85% on-time lodgement benchmark for the 2020–21 lodgement year will not cause tax agents to lose access to the lodgement program. While uncommon, it is possible for tax agents who fail to meet the 85% on-time lodgement benchmark to have access to the lodgement program revoked if they repeatedly post poor lodgement results.

The statement is welcome for the many practitioners who are struggling to meet lodgement deadlines due to the impact of COVID-19 and the additional demands imposed in dealing with access to the stimulus measures. However, the ATO has not provided any blanket lodgement deferral for taxpayers, and it is still necessary to request extensions for your clients if required.

More Information

- Tax professionals conversations - Tax Time 2021 (17 June 2021)

ATO business portal being retired

The business portal will be shut down at the end of July 2021 and is basically replaced by the ATO's 'Online services for business' from this date.

More Information

- Business Portal retires at the end of July

Payment-only deferrals for tax agents

Practitioners should be aware that it is possible to apply for a payment-only deferral for eligible tax obligations for their clients, including income tax and FBT.

In order to lodge a payment deferral application there must be exceptional or unforeseen circumstances beyond your client's control such as natural disasters, serious illness, or legal impediments to payment (see PS LA 2011/14 for guidance).

In lodging the application, tax agents need to provide full details of the client's exceptional or unforeseen circumstances that prevented them from paying by the due date and the steps taken by the client to mitigate the effects of those circumstances. It is also necessary to demonstrate that the client can make full payment once the circumstances have been resolved and that the client will pay their continuing tax-related liabilities on time once the circumstances are under control.
The application is made by completing the payment deferral application form through Online services for business.

More information

- Payment-only deferral requests for registered agents

Business turnover and available concessions tables

A helpful resource has been added to the ATO website to enable you to check which small business concessions are available for business entities based on their aggregate turnover. At present there are a number of different turnover thresholds for different concessions due to changes made in recent years.

As noted by the ATO, most of the concessions have further eligibility criteria which need to be satisfied, however links to the guidance for each concession are provided.

More Information

- Concessions at a glance

Rulings, determinations & IDs

Temporary full expensing in detail

LCR 2021/D1 Temporary full expensing

This draft law companion ruling provides guidance on practical aspects of the temporary full expensing rules which allow the full cost of depreciating assets to be deducted if the relevant conditions can be satisfied.

One of key points confirmed in the draft ruling is that clients who acquire assets that are excluded from the simplified depreciation rules could potentially still apply the temporary full expensing rules to these assets.

Probably the most common example of this is for assets that are subject to a depreciating asset lease. While these assets are specifically excluded from the simplified depreciation rules the ATO indicates that they could still be subject to a full deduction under the temporary full

expensing rules. However, this assumes that the taxpayer who acquires the asset is carrying on a business under general principles and expects to use the asset principally in Australia for the principal purpose of carrying on a business.

Aggregated turnover when connected entities have different accounting periods

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?

The draft determination looks at the issue of connected entities and how to calculate aggregated turnover where the entities in the group have different accounting periods for income tax purposes.

When working out aggregated turnover under section 328-115 of ITAA 1997 you need to include:

- The annual turnover of the taxpayer being tested;
- The annual turnover of entities that are connected with the taxpayer; and
- The annual turnover of affiliates of the taxpayer.

The ATO confirms that when calculating the annual turnover of connected entities and affiliates you use the income year of the entity that is being tested, even if the connected entity or affiliate has a different accounting period. For example, if the entity being tested has a standard 30 June year end for income tax purposes but it has a connected entity which has a 31 December year end, then you need to calculate the annual turnover of the connected entity on a 30 June year end basis. This could be particularly relevant in situations where Australian entities have parent entities or subsidiaries in other countries.

FBT: car parking fringe benefits

TR 2021/2 Fringe benefits tax: car parking benefits

This ruling replaces the previous ruling in this area (TR 96/26) and explains out when the provision of car parking by an employer is treated as a car parking benefit for FBT purposes. The ruling works through some of the key aspects of the car parking fringe benefit rules, including:

- How to determine whether a car park is located in the vicinity of the employee’s primary place of employment;
- Whether a car park is a commercial parking station; and
- How to determine the lowest representative fee charged by a commercial parking station for all-day parking.

The ruling doesn’t currently look in detail at how to determine an employee’s primary place of employment. This issue has been considered recently by the courts and the ATO will updated the ruling in due course.

R&D tax offset – at risk rule

TR 2021/D3 Income tax: research and development tax offsets - the ‘at risk’ rule

This draft ruling outlines the two major aspects of the ‘at risk’ rule and its application to calculating the R&D tax offset that can be claimed.

Very broadly, the ‘at risk’ rule compares the consideration received (or receivable) by a taxpayer in connection with R&D expenditure that has been incurred. The rule can deny or reduce the amount an eligible taxpayer can claim for the R&D tax offset. The notional

deduction is denied in full where the amount of consideration received is equal to or greater than the expenditure incurred. Where the amount of consideration received is less than the expenditure, the notional deduction is reduced by that amount. The Commissioner's view is that the term 'consideration' includes non-monetary benefits.

There are two main components to the 'at risk' rule. The first is in respect of the consideration that the taxpayer (or an associate) has received or could reasonably be expected to *receive as a direct or indirect result of expenditure being incurred* (the nexus to expenditure test). This test reduces the R&D tax offset to the extent that payments will be received due to conducting the R&D activities. A simple example would be where a taxpayer performs R&D activities in exchange for a payment from a third party who obtains a partial ownership interest in the results (refer to example 1 in the draft ruling).

This aspect of the test focuses on whether the taxpayer or associate has received, or has a reasonable expectation to receive, consideration at the time the expenditure is incurred. For example, the 'at risk' rule does not apply to include consideration received from a contract the taxpayer had not reasonably expected to enter into at the time the R&D expenditure was incurred.

The other aspect of test requires taxpayers and advisers to consider whether any consideration is received (or receivable) *regardless of the results of the activities on which the taxpayer incurs the expenditure* (the regardless of results test). This test is a question of fact which looks at whether payments will be received (or could reasonably be expected to receive) regardless of the results of the R&D activities. Examples could include situations where the consideration depends only on:

- The fact expenditure is incurred;
- The completion of the activities on which the expenditure is incurred; or
- Supplying an effective ownership interest in the outcomes of the R&D activities whatever those outcomes may be.

Practitioners with clients claiming the R&D tax offset should review the draft ruling to determine whether the 'at risk' rule could potentially have an impact on the R&D tax offsets that can be claimed.

Software royalties

TR 2021/D4 Income tax: royalties - character of receipts in respect of software

At a high level this draft ruling considers the character of receipts from the licensing and distribution of software and whether they are classified as royalties for income tax purposes. The ruling covers a wide range of situations and really needs to be reviewed in detail for clients involved in the software industry.

If payments are classified as royalties this can have significant tax implications for clients, including the tax rate and franking rate that applies to companies and whether non-residents withholding tax is triggered.

For tax purposes, the definition of 'royalty' includes amounts paid or credited for:

- The use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trademark, or other like property or right (i.e., paragraph (a) of the definition);
- The supply of scientific, technical, industrial or commercial knowledge or information (i.e., paragraph (c) of the definition), and

- The supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in paragraph (a) of the definition, or any such knowledge or information as is mentioned in paragraph (c) of the definition (i.e., paragraph (d) of the definition).

While specific circumstances will need to be examined in detail to confirm the treatment, a summary of some of the more common scenarios in this area is below.

1. Payments to the owner of the copyright in software for a licence which permits the licensee to copy, modify or adapt the software, or to otherwise do something in relation to the software that is the exclusive right of the copyright owner, is a royalty.
2. Payments for the right to make copies of and distribute software is a royalty irrespective of whether the payment is a one-time or periodical payment or calculated by reference to the number of times the program is reproduced.
3. Payments by a software developer or a computer programmer for the right to modify or adapt software is a royalty.
4. Payments for the simple use of software are not royalties.
5. Where a software distributor is granted broad distribution rights which include the use of any intellectual property necessary to perform its distribution function, a payment for those rights will be a royalty.
6. Payments by a software distributor for the right to sub-licence the use of software is a royalty.
7. A distributor may enter into a distribution agreement under which it is granted the right to market and distribute packaged software but not to sub-licence the use of the software to end-users or to otherwise use the copyright in the software. The payments under the agreement should not be royalties.
8. Payments for the outright sale or transfer of the copyright in software are not royalties.
9. In cases where the essence of the contract is the provision of services for the modification or creation of software, the payments under the contract will not be royalties.
10. Payments for assistance relating to software are royalties where the assistance is subsidiary and ancillary to the right to use the copyright in the software or to the supply of know-how in relation to the software.
11. In the case of contracts for the supply of software any payments for assistance which relates to the simple use of the software, for example help desk support, will generally not be royalties.

Withholder Payer Number (WPN) exemption extended for STP

STP 2021/D1

The exemption for employers with a withholder payer number (WPN) reporting using STP has been extended again to cover the 2021-22 financial year. This means that WPN holders won't need to start using STP from 1 July 2021.

Cases

Accountant denied cash flow boost

VNBM and Commissioner of Taxation [2021] AATA 1626

This case looked at an arrangement that resulted in the taxpayer accessing a higher cash flow boost payment by increasing the amount of wages paid in a particular period shortly after the cash flow boost scheme was introduced. The basic facts are that for a number of years the taxpayer's business had been declaring wages of $1,300 each quarter to a director, including the first two quarters of the 2020 financial year (September 2019 and December 2019). As the amounts were below the tax-free threshold there was no PAYG payable.

After the announcement of the cash flow boost criteria on 12 March 2020 the taxpayer declared wages of over $100,000 for the March quarter – which would have led to the maximum cash flow boost entitlement of $50,000 arising (the wages triggered a PAYGW obligation of $50,009). ATO officers concluded that the applicant had entered into a scheme with the sole or dominant purpose of obtaining a higher cash flow boost payment. There was also a question as to whether the wages had actually been paid. The taxpayer argued that the purpose of the change in the wages paid was not driven by obtaining a cash flow boost but rather to enhance the ability of the taxpayer to refinance certain loans.

Another key point in this case was the fact that the wages were paid as a lump sum amount rather than being spread over a period of time. The fact that the taxpayer was a tax agent and chartered accountant was considered important. For example, the AAT noted that if the increased wages had been spread over a longer period, the company would not have incurred a PAYGW obligation of $50,009.

The individual also gave evidence that he intended that the PAYGW obligation would be left outstanding, to be repaid over a 12-month period under a payment plan to be negotiated with the ATO. In other words, the individual, a registered tax agent with statutory obligations to keep his tax affairs in order, was suggesting that he deliberately put an entity under his control in default of its tax obligations in order to make a favourable impression upon a prospective lender.

Ultimately, the AAT were not convinced by the taxpayer's arguments. The AAT agreed with the Commissioner and denied the payment of the cash flow boost.

Taxpayer unable to produce evidence to prove that Commissioner's assessment was excessive

Behrndt and Commissioner of Taxation (Taxation) [2021] AATA 1769

When a taxpayer wants to object against an assessment, the onus is on them to prove that the amount that has been assessed is excessive. The taxpayer must do more than establish that the Commissioner's assessment is wrong, they must prove their actual taxable income for the relevant years. In many cases a lack of experience in dealing with tax disputes can be detrimental to taxpayers – such as in this case. The main issue here was whether certain deposits made to a company's bank account should be included in the assessable income of the taxpayer. The taxpayer sought to argue that particular deposits were not income for a variety of reasons, such as the amounts being loans from other entities.

However, the taxpayer's assertions were not supported by appropriate evidence. While the taxpayer argued that certain amounts should not have been included in their assessable income, the taxpayer failed to prove that the amended assessments issued by the ATO were excessive.

The taxpayer in this case was unrepresented, although a tax lawyer had prepared the initial documentation. It can be very difficult for unrepresented applicants to succeed in disputes with the ATO that reach the AAT and clients who are considering going down this path should be encouraged to seek appropriate assistance.

Non-resident trust beneficiaries and capital gains

[Peter Greensill Family Co Pty Ltd (as trustee) v FC of T; Nicholas Martin & Anor v FC of T [2021] FCAFC 99]

This case was an appeal to the Full Federal Court from the earlier decisions in the *Greensill* case and *Martin* case. Broadly, those cases confirmed the ATO's view that if a resident discretionary trust makes a capital gain then this will be taxed in Australia - even if the gain is distributed to a non-resident beneficiary and the gain does not relate to taxable Australian property (TAP). Generally, non-resident taxpayers are not subject to capital gains on the disposal of assets that are not TAP. Likewise, non-resident taxpayers who receive capital gains from a fixed trust that relate to non-TAP assets are not generally subject to Australian tax. However, the ATO's view is that these exemptions don't apply when the capital gain is made by a resident discretionary trust.

In appealing the decision, the taxpayer sought to make several new arguments, both technical and from a policy perspective, that the previous decisions were incorrect. However, the Full Court held that the primary judges in the original decisions were correct in concluding that the gains can be taxed in Australia in these situations.

Legislation

Parliament resumed on 15 June 2021

Maximum allowable number of SMSF members increases to 6 after fiery debate

[Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020]

Status: Royal Assent 22 June 2021

Originally announced in the 2018-19 Budget, this Bill increases the maximum number of allowable members in an SMSF and small APRA fund from four to six.

It's important to recognise that in some instances, the number of individual trustees that a trust can have may be limited to less than five or six trustees by State legislation (Queensland for example). In these cases, fund members might opt to use a corporate trustee.
And, as the update impacts the definition of as SMSF, the change will have practical impacts across other Acts and Regulations.

Sign off requirements for an SMSF's accounts and financial statements will also change. Currently, if an SMSF has more than one director member, its accounts and statements must be signed by at least two members in their capacity as individual trustee or as a director of a corporate trustee. As there cannot be more than four members of an SMSF under the current rules, these requirements ensure that all members sign the accounts and statements of SMSFs with one or two members. For SMSFs with three or four members, at least half of the members must sign its accounts and statements for an income year. Under the updated requirements, an SMSF with one or two directors or individual trustees must have its accounts and statements signed by all of those directors or trustees. For all other SMSFs (that is, those with between three and six directors or trustees), the accounts and statements of the SMSF must be signed by at least half of the directors or individual trustees.

One question that arises with this Bill is, why is it necessary? Particularly when 70% of funds have just two members and those with four members represent only 4% of the SMSF population. The explanatory memorandum states that increasing the number of allowable members in an SMSF

"increases choice and flexibility for members. SMSFs are often used by families as a vehicle for controlling their own superannuation savings and investment strategies. For families with more than four members, currently the only real options are to create two SMSFs (which would incur extra costs) or place their superannuation in a large fund. This change will help large families to include all their family members in their SMSF."

An amendment put forward by the Opposition (but rejected) sought a review of the operation of the amendment 12 months after the Act commences primarily to address the "the conduct of financial advisers and trustees." In a fiery series of comments Senator McAllister stated, "the risk is that the people who will benefit most from these arrangements **are financial advisers giving shonky advice -** the kind of advice we've seen again and again and again, the kind of advice exposed in the Hayne royal commission. There are inadequate protections for consumers, and this bill further exposes people to these risks. It's on that basis that I have moved this amendment, which simply does this: it seeks to have a review of the operation of this bill." Ouch.

Senator Hume had the industry's back stating, "it's rather unfortunate and, indeed, disingenuous of the opposition to disparage the good work that financial advisers do and the contribution that they make to the financial wellbeing of thousands and thousands of Australians."

Superannuation 'stapled' to the individual

Treasury Laws Amendment (Your Future, Your Super) Bill 2021

Status: Royal Assent 22 June 2021

Single default funds

The Bill introduces rules to limit the creation of multiple superannuation accounts for employees who do not choose a superannuation fund when they start a new job.

Currently, when an employer hires a new staff member, the employee is provided with a Choice of Fund form to identify where they want their superannuation directed. If the employee does not identify a fund, the employer directs their superannuation into a default fund.
From 1 November 2021, where an employee does not identify a fund, the employer is required to link the employee to an existing superannuation fund before establishing a default fund on their behalf. That is, an employee's superannuation fund will become 'stapled' to them. An employer will not simply be able to set up a default fund, but instead will be required to request that the ATO identify the employee's stapled fund. If the ATO confirms no other fund exists for the employee, contributions can be directed to the employer's default fund or a fund specified under a workplace determination or an enterprise agreement (if the determination was made before 1 January 2021).

New obligations on trustees to act in best *financial* interests of beneficiaries

The Bill clarifies that the financial interests (and not non-financial interests) of beneficiaries must be the determinative factor for trustees to comply with their obligations under the SIS Act. In addition to the retirement benefits that superannuation provides members, the financial interests of members may include insured benefits (including death benefits or total and permanent disability coverage) provided in accordance with a properly formulated insurance strategy and other legal, regulatory and professional obligations. Subject to the trustees complying with the sole purpose test, this does not preclude trustees undertaking

actions that also yield non-financial benefits to the beneficiaries, but the action cannot compromise the best financial interests of the beneficiaries. How any action will yield financial benefits to the beneficiaries of the superannuation entity must be the determinative consideration for any trustee. The bottom line is that expenses incurred by trustees must be for the financial interests of the beneficiaries. This will include trustees assessing and evidencing whether payments to third parties meet this test. The evidential burden is now on trustees.

While there is no penalty if a trustee contravenes the best financial interests duty, they may still be caught by section 62 (sole purpose) and section 65 (providing financial assistance to relatives or members). SMSF trustees in breach of the covenants may also be considered not to be fit and proper to manage their SMSF and could be disqualified under section 126A of the SIS Act.

Medicare levy low-income threshold and other budget measures

Treasury Laws Amendment (2021 Measures No. 3) Bill 2021

Status: Passed without amendment

The Bill, covered in last month's round up, enables a series of 2021-22 Budget measures:

- Medicare levy low-income threshold - increases the Medicare levy low-income thresholds for singles, families, and seniors and pensioners from 1 July 2020;
- Tax exemption for storm and flood grants for SMEs and primary producers; and
- Family home guarantee – guaranteeing loans for 10,000 single parents with dependants to buy a first home.

GST on granny flats, FBT exemption for training redundant employees and more

Treasury Laws Amendment (2021 Measures No. 4) Bill 2021

Status: Passed without amendment

As covered in last month's Round Up, this Bill enacts a series of Budget measures including:

- The extension of the low and middle income tax offset (LMITO) to the end of the 2022 income year;
- The introduction of a CGT exemption for granny flat arrangements that meet specific conditions – from 1 July 2021;
- The introduction of a specific FBT exemption for employers in relation to providing fringe benefits in connection with the education or training of redundant employees - applies to benefits provided on or after 2 October 2020;
- The extension of the junior minerals exploration incentive until the end of the 2025 income year (it was due to end at the end of the 2021 income year); and
- Amending the rules to minimise the Australian tax exposure for NZ sportspersons and support staff who have spent an extended period in Australia participating in cross-border league competitions as a result of COVID-19 - applies to income in the 2020-21 and 2021-22 income years.

COVID-19 disaster payment for workers impacted by lockdown

COVID-19 Disaster Payment (Funding Arrangements) Bill 2021

Status: Passed without amendment

The Bill provides the framework for a new payment from the Federal Government, the 'COVID-19 disaster payment', to specifically provide for workers impacted by restricted movement lockdowns that last more than 7 days

in an area of COVID-19 local transmission declared by the Chief Medical Officer. Applications for the payment are open through Services Australia.

Access to the payment is very limited and operates as emergency relief.

The payment is available to:

- Australian citizens, permanent residents or temporary visa holders who have the right to work in Australia; and
- Are aged 17 years or over; and
  - Can't attend work and lost income on or after day 8 of a COVID-19 lockdown;
  - Don't have access to appropriate paid leave entitlements through their employer;
  - Are not receiving an income support payment, a state or territory pandemic payment, Pandemic Leave Disaster Payment or state small business payment for the same period.

In addition, the person has to declare that they have liquid assets of less than $10,000.

The payment amount depends on hours lost:

- Lost less than 20 hours work - $325 for each relevant period of lockdown.
- Lost 20 hours or more of work - $500 for each relevant period of lockdown.

Login and see the client update from Knowledge Shop – *What lockdown support is available?* in Updates/ News.

Screen Production incentive reform

Treasury Laws Amendment (2021 Measures No. 5) Bill 2021

Status: Introduced into the House of Representatives

Announced in the 2020-21 Budget, the Bill increases the producer offset for films that are not feature films released in cinemas to 30% of total qualifying Australian production expenditure, and to make various threshold and integrity amendments across the three screen tax offsets.

The amendments:

- Increase the producer offset rate to 30% across all types of eligible films that are not feature films released in cinemas;
- Increase the qualifying Australian production expenditure threshold from $500,000 to $1m;
- Amends eligibility criteria:
  - Removes 65 commercial hour cap for a series and seasons of a series;
  - Expenditure on general business overheads can no longer be counted as qualifying Australian production expenditure towards any offset;
  - Expenditure on goods and services provided by Australian residents outside Australia can no longer be counted towards a company's qualifying Australian production expenditure;
  - Expenditure in relation to a film incurred in acquiring Australian copyright or licensing Australian copyright in a pre-existing work for use in the film can be counted as qualifying Australian production expenditure up to a cap equal to 30% of the film's total production expenditure;
  - For a documentary, development expenditure and remuneration provided to the director, producers and principal cast ('above the line' expenditure) up to 20% of the total production expenditure on a film can be counted as qualifying Australian production expenditure;
  - A company may only claim expenditure as qualifying Australian production expenditure on the first version of a film, and one-re-version.

Child care subsidy increase for families with multiple children

[Family Assistance Legislation Amendment (Child Care Subsidy) Bill 2021]

Status: Introduced into the House of Representatives

This Bill implements the 2021-22 Budget measure increasing the child care subsidy for families with multiple children aged five or under in child care from 11 July 2022, and removes the $10,560 cap.

Single disciplinary body for financial advisers

[Financial Sector Reform (Hayne Royal Commission Response-Better Advice) Bill 2021]

Status: Introduced into the House of Representatives

The Hayne Royal Commission recommended the creation of a single disciplinary body for financial advisers.

This Bill implements recommendation 7.1 of the Tax Practitioners Board Review, which recommended that a new model be developed for regulating tax (financial) advisers in alignment with implementing recommendation 2.10 of the Financial Services Royal Commission Final Report.

The Bill also delivers the Government's announcement on 9 December 2020 that it would wind-up FASEA and transfer its standard setting functions to the Minister responsible for the Corporations Act and to ASIC.

The Bill will:

- Expand the role of the Financial Services and Credit Panel within ASIC to operate as the single disciplinary body for financial advisers to ensure that less serious misconduct does not go unaddressed;
- Create additional penalties and sanctions for financial advisers who have breached their obligations under the Corporations Act, reflecting that the current set of sanctions are limited to banning a financial adviser;
- Introduce a new registration system for financial advisers to improve the accountability and transparency of the financial services sector; and
- Transfer functions from the Financial Adviser Standards and Ethics Authority (FASEA) to the Minister responsible for administering the Corporations Act and to ASIC to streamline the regulation of financial advisers.

The new disciplinary and registration systems for financial advisers apply from 1 January 2022. Also see the Media Release [Better Advice Bill introduced into Parliament]

Sex discrimination definition extended and paid compassionate leave for miscarriage

[Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021]

Status: Introduced into the House of Representatives

While not the normal topic we cover in the Round Up, the amendments in this Bill are set to change leave entitlements for employees.
The Bill expands the minimum leave entitlement to ensure that a miscarriage constitutes grounds for compassionate leave. These amendments would ensure that when an employee, or an employee's spouse or de facto partner, has a miscarriage, the employee would be entitled to two days paid compassionate leave (unpaid for casuals) in recognition of their bereavement.

The Bill also tightens up sexual harassment laws in line with the Respect@Work Report. Among the amendments the Bill clarifies that victimizing conduct can form the basis of a civil action for unlawful discrimination in addition to a criminal complaint under the Sexual Discrimination Act, and clarifies that sexual harassment can be conduct amounting to a valid reason for dismissal in determining whether a dismissal was harsh, unjust or unreasonable.

Table 1.1 : 2020-21 Medicare levy low-income threshold amounts and phasing-in ranges

Category of taxpayer	No levy payable in 2020-21 if taxable income or family income does not exceed (figure for 2019-20)	Reduced levy in 2020-21 (if taxable income or family income is within range (inclusive)	Ordinary rate of levy payable in 2020-21 where taxable income or family income is equal to or exceeds (figure for 2019-20)
Individual taxpayer	$23,226 ($22,801)	$23,227-$29,032	$29,033 ($28,502)
Individual taxpayers eligible for the SAPTO	$36,705 ($36,056)	$36,706-$45,881	$45,882 ($45,070)
Families eligible for the SAPTO	$51,094 ($50,191)	$51,095-$63,867	$63,868 ($62,740)
Families with the following number of children and/or students	(family income)	(family income)	(family income)
0	$39,167 ($38,474)	$39,168 -$48,958	$48,959 ($ 48,093)
1	$42,764 ($42,007)	$42,765 -$53,454	$53,455 ($52,509)
2	$46,361 ($45,540)	$46,362 -$57,950	$57,951 ($56,925)
3	$49,958 ($49,073)	$49,959 -$62,446	$62,447 ($61,341)
4	$53,555 ($52,606)	$53,556 -$66,942	$66,943 ($65,757)
5	$57,152 ($56,139)	$57,153 -$71,438	$71,439 ($70,173)