Australian international tax: 2025 recap

January 2026

Your essential source for staying informed on Australia's dynamic tax landscape.

There were some significant international tax developments in Australia in 2025. Notably, the Pillar Two rules have been enacted, and the ATO continues to issue guidance in respect of the application of these rules. For in-scope entities, the first Pillar Two filings and payments will be due by 30 June 2026, so it is important that taxpayers are prepared for this, as any late filings could attract significant penalties.

Another significant update is the enactment of Australia's Public Country-by-Country (**CbC**) reporting regime, requiring certain large multinational enterprises to publicly disclose tax and economic data on country-by-country or aggregate basis. The public CbC rules are effective from 1 July 2024, with reporting due 12 months after year end (so in-scope entities will have their first reports due by 30 June 2026).

There have also been some high-profile court cases. The High Court of Australia (in a 4:3 majority) ruled in favour of the taxpayer in the *FCT v PepsiCo, Inc* [2025] HCA 30 (PepsiCo), finding that payments made by Schwepps Australia to PepsiCo in Singapore for average concentrate were not royalties and, accordingly, not subject to royalty withholding tax.

The Federal Court in *YTL Power Investments Limited v Commissioner of Taxation* [2025] FCA 1317 also ruled in favour of the taxpayer, holding that certain network lease assets were not 'Taxable Australian Real Property' and, therefore, the foreign-resident owners were not subject to Australian capital gains tax on their disposal/transfer.

Please read on for further insights on the latest international tax developments. Should you have any questions or would like to find out more on the content in this newsletter, feel free to reach out to the tax contacts at Grant Thornton listed in this publication.

The highlights from 2025:

Pillar Two

The Australian Pillar Two rules implement a 15 per cent global minimum tax for large MNEs from income years starting 1 January 2024, introducing significant new ATO filing obligations and potential top-up tax payments. First filing for in-scope entities are due on 30 June 2026. Read more.

Debt Deduction Creation Rules

Australia's DDCR, effective 1 July 2024, permanently deny interest deductions for certain related-party debt (with no transitional relief), requiring impacted taxpayers to reassess financing structures and prepare for new 2025 disclosure obligations. Read more.

Public CbCR

Australia's public country-by-country reporting regime, effective from income years starting 1 July 2024, requires large MNEs to publicly disclose jurisdiction-level tax and financial data, creating significant new compliance, commercial and reputational considerations ahead of the first reports due in June 2026. Read more.

PepsiCo Case

This case, decided in favour of the taxpayer, confirms that where contracts, cash flows, invoicing, and risk align with a genuine goods-only supply, payments are less likely to be recharacterised as embedded royalties, reducing exposure to royalty withholding tax and Diverted Profits Tax. Read more.

Daniel Kave

Partner | National Managing Partner – Tax
+ 61 3 8663 6314
Daniel.Kave@au.gt.com

Grant Thornton Australian tax insights Corporate tax

Debt Deduction Creation Rules now in force

Australia has introduced Debt Deduction Creation Rules (**DDCR**) effective from 1 July 2024, aimed at permanently denying tax deductions for interest and borrowing costs linked to certain related-party arrangements.

These rules apply broadly to acquisitions from associates and distributions funded by debt, even if the transactions were commercially motivated.

There is no transitional relief, and deductions denied under the DDCR cannot be carried forward. Taxpayers with associate-inclusive debt deductions exceeding AUD2m must review historical and current debt structures, ensure compliance with ATO guidance, and prepare for new disclosure requirements in the 2025 tax schedules

Link: Navigating the new debt deduction creation rules

Why it matters:
Taxpayers with intra-group financing arrangements are at risk of being captured by these rules. The denial of debt deductions can have an immediate cash flow impact, potentially affecting the viability of projects and operations. To mitigate this risk, it is critical that taxpayers maintain comprehensive documentation demonstrating the purpose and application of borrowed funds.

Australian Pillar Two rules now enacted

The Australian Pillar Two rules were enacted in December 2024 and, broadly, apply to income years starting 1 January 2024. The Australian Pillar Two rules align with the OECD's global initiative to establish a minimum tax rate of 15 per cent for large multinational enterprises (**MNEs**) (i.e. revenue exceeding €750m).

There are three new returns that need to be filed with the ATO. These returns, and any top-up tax payments under the Pillar Two rules, are due 18 months after year-end, which will be 30 June 2026 for the first in-scope entities and thereafter 15 months after year-end.

Link: Pillar Two rules in Australia passed

Why it matters:
Taxpayers that fall within the Pillar Two regime will have significant new Australian tax compliance obligations and, in some circumstances, may need to pay top-up tax in Australia. Penalties for late filings can be severe – up to 500 times the usual amount (i.e. $165k for being 1 day late, up to $825k for more than 112 days late) and apply on a 'per form' basis, regardless of whether tax is payable.

New thin capitalisation Regime: ATO's finalised guidance on the third-party debt test

The Australian thin capitalisation rules can limit how much "debt deductions", such as interest expenses, a business can deduct for tax purposes. Generally, these rules apply to businesses with foreign ownership or offshore operations and debt deductions exceeding AUD$2m.

Under the thin capitalisation rules, the third-party debt test (**TPDT**) is an optional method that may allow debt deductions on genuine loans from unrelated lenders (like banks), but only if strict conditions are met, such as the lender having recourse only to Australian assets and the funds being used for Australian business activities.

With the recent release of the ATO's final ruling TR 2025/2, the ATO provides detailed guidance and examples to help businesses understand the TPDT conditions. It also highlights complexities such as group elections and restrictions on guarantees or credit support. While TPDT can help businesses maintain debt deductions where other tests fail, qualifying is not automatic and requires careful planning and documentation.

Link: ATO final taxation ruling – TR 2025/2: Third Party Debt Test (TPDT)

Why it matters:
The incorrect application of the TPDT can lead to interest deductions being denied, which can significantly increase tax costs for businesses operating in Australia. For overseas companies investing in Australia, understanding these rules is critical to structuring financing arrangements properly and avoiding unexpected tax liabilities.

Grant Thornton Australian tax insights
Corporate tax (continued)

Update on Guidance regarding tax residency: Central Management and Control

The ATO has updated its Practical Compliance Guideline (PCG 2018/9) to require alignment between corporate tax residency disclosures in tax returns and the Consolidated Entity Disclosure Statement (**CEDS**) used for financial reporting.

Inconsistencies—such as a company self-assessing as non-resident while reporting as resident in its CEDS—will now increase compliance risk and disqualify the entity from being considered ‘low risk’. Effective for financial years starting on or after 1 July 2024, the ATO emphasises substance over form: the true location of strategic decision-making, not just board meeting venues, determines residency. These changes follow the High Court’s Bywater decision, which broadened the scope for foreign-incorporated companies to be treated as Australian tax residents

Link: Aligning corporate tax residence disclosures in tax returns to CEDS

Why it matters:
For multinationals and groups with complex governance structures, misalignment between tax returns and CEDS can trigger higher compliance scrutiny and potential tax residency disputes. Taxpayers should review governance arrangements, document where central management and control occurs, and ensure disclosures are consistent across all reporting platforms to mitigate risk.

Changes to foreign resident CGT withholding rules

Effective from 1 January 2025, the withholding tax rate on transactions involving Taxable Australian Property (**TAP**) has increased from 12.5% to 15%, and the previous AUD $750,000 threshold has been removed. This means all TAP transactions—covering assets such as land, buildings, leases, and mining rights—are now subject to the Foreign Resident Capital Gains Withholding (**FRCGW**) regime.

Purchasers or lessees must withhold tax at settlement unless the vendor provides an ATO clearance certificate (or a declaration in specific circumstances) confirming residency, or an ATO variation for non-residents.

Link: Preparing for changes to Australian Foreign Resident Withholding Tax on Capital Gains rules

Why it matters:
These changes significantly broaden the scope of compliance for foreign investors and multinational corporations involved in Australian property transactions. The removal of the threshold means even smaller deals are captured, increasing administrative obligations and potential cash flow impacts. Businesses must review transaction processes, ensure timely ATO documentation, and factor in higher withholding rates when structuring investments or divestments in Australia.

Federal Court decision on when a foreign resident is taxed on disposal of real property

On 30 October 2025, the Federal Court delivered its decision in *YTL Power Investments Limited v Commissioner of Taxation* [2025] FCA 1317, ruling in favour of YTL Power Investments. The case centred on whether transmission network lease assets constituted “taxable Australian real property” (**TARP**). Broadly, if an asset is considered TARP, then foreign owners are subject to Australian capital gains tax on the disposal of the asset.

Hespe J rejected the Commissioner’s broad interpretation, confirming that determining TARP status requires examining the rights conferred on the taxpayer and whether those rights themselves amount to real property. The Court accepted YTL’s argument that the leased assets were treated as personal property under South Australian legislation, severed from land ownership. This interpretation contrasts with the Commissioner’s position that structures affixed to land should automatically be considered real property.

Link: Decision handed down on YTL Power Investments Limited v Commissioner of Taxation [2025] FCA 1317

Why it matters:
The decision provides clarity on the scope of TARP. Foreign entities investing in infrastructure and property/property-related assets should review the classification of assets, as this could impact tax planning, valuations and compliance strategies. Taxpayers should note that Treasury has flagged possible legislative amendments to Division 855 and that the ATO are appealing this decision.

Grant Thornton Australian tax insights
Corporate tax (continued)

CGT rollover relief applied to restructure – AusNet Services Limited

The Full Federal Court recently ruled in *AusNet Services Limited v Commissioner of Taxation* [2025] FCAFC 21, affirming that AusNet's 2015 restructure qualified for rollover relief under Division 615 of the *Income Tax Assessment Act* (Cth) 1997.

AusNet had reorganised its stapled group into a single holding company through a "top-hatting" arrangement, exchanging shares for shares. Initially, the ATO issued a Class Ruling confirming rollover relief, but AusNet later sought to unwind its election, arguing that certain steps didn't meet the conditions hoping to revalue assets for higher depreciation deductions. The Court rejected this, clarifying key principles:

- Division 615 applies broadly to multi-entity schemes, not just simple reorganisations.
- The "and nothing else" condition focuses on what shareholders receive under the scheme, not incidental value increases.
- Proportionate ownership tests are satisfied even in sequential transactions.

The High Court refused AusNet leave to appeal, cementing these interpretations.

Link: Lessons from AusNet's restructure

Why it matters:
This case underscores the permanence of tax elections and the complexity of rollover relief rules. Once a restructure is executed, reversing positions is extremely difficult. Careful upfront planning, modelling tax outcomes, and obtaining expert advice are critical to avoid unintended consequences. This decision also signals the ATO's strict approach to integrity conditions, which can impact future reorganisations and inbound investment strategies.

High Court decision in Bendel's case pending – Unpaid present entitlements (UPE) and Division 7A

In February 2025, the Full Federal Court ruled that a UPE resulting from a trust allocating income to a corporate beneficiary did not constitute a "loan" for Division 7A purposes. This is contrary to the ATO's long-held position.

The ATO has appealed the decision to the High Court of Australia. It is anticipated that the HCA will hand its decision down in January/February 2026.

Link: Court rules ATO's 15-year stand on trusts and Division 7A to be wrong – Bendel case

Why it matters:
If the ATO is successful in its appeal, foreign trustees that have made UPEs to Australian companies and foreign companies that have received UPEs from Australian Trustees must continue to carefully consider whether the UPEs should be formally documented as "Division 7A compliant" loan agreements, subject to prescribed interest rates and repayment over, broadly, 7 years. If the ATO is unsuccessful in its appeal, foreign entities affected by Division 7A must nevertheless continue to monitor for future legislative changes that may seek to impact the pending High Court decision in Bendel.

Grant Thornton Australian tax insights

Transfer pricing

Public country-by-country reporting legislation enacted

Australia's public country-by-country reporting requirements were enacted in December 2024 and apply to income years starting 1 July 2024.

The legislation marks a major shift in Australia's tax transparency framework. MNEs with revenue exceeding AUD 1b with significant Australian operations will now be required to publicly disclose tax and financial data on a jurisdictional basis. The first public reports will be due by 30 June 2026 for entities with a 30 June 2025 year-end.

While the regime aligns broadly with global tax transparency initiative, Australia's version includes distinctive features such as de minimis thresholds and jurisdiction specific disclosures.

The ATO has also released guidance outlining the process for MNEs seeking exemption from the reporting requirements. The Commissioner may grant full or partial exemptions for one reporting period at a time based on the primary grounds of commercial sensitivity, national security, or breach of Australian or foreign law.

Link: Australia's public country-by-country reporting legislation

Why it matters:
MNEs that fall within the public country-by-country reporting regime will have significant new Australian reporting obligations. For affected businesses, the move to public disclosure raises commercial, compliance and reputational considerations, requiring proactive communication strategies to manage stakeholder expectations.

ATO issues draft guidance on arm's length debt amount

The ATO has released their draft guidance on determining the arm's length debt amount for inbound loans from overseas related parties.

The draft guidance details extensive analysis that needs to be performed and places increased expectation on the information taxpayers need to gather to evidence the arm's length quantum of inbound loans from related parties.

The guidance advises taxpayers to evaluate financing options that are realistically available to them, such as relying on internally generated funds, raising equity capital, or securing debt capital.

Taxpayers are also expected to consider several qualitative factors to support their analysis, including their funding requirements, group policies and practices, return to shareholders, cost of funds, debt covenants, the existence of explicit guarantees and security, and their serviceability and leverage.

The ATO's guidance reiterates the importance of preparing and maintaining transfer pricing documentation along with detailed analysis to support the quantum of the taxpayer's inbound, cross-border related party financing arrangement.

Link: Borrowing capacity and guarantees: ATO's take's take on arm's length debt amount

Why it matters:
The ATO clarifies that transfer pricing rules take precedence when applying the new thin capitalisation regime, meaning taxpayers must first prove their debt amount and interest rate are arm's length. If all or part of the debt amount is not considered arm's length, the interest debt deduction associated with the excess debt is not deductible.

Grant Thornton Australian tax insights
Transfer pricing (continued)

ATO releases draft guidance on cross-border software payments and royalties

The ATO has issued draft guidance PCG 2025/D4 which outlines the ATO's compliance approach to identifying when cross-border software payments may be treated as royalties and therefore be subject to withholding tax. This reflects the ATO's broader focus on IP and the tax treatment of payments made under software arrangements.

The ATO's framework allows businesses to determine the risk rating of their arrangements. Standard software use cases, such as off-the-shelf software used internally, or software that is inherent or practically inseparable to enable tangible goods to perform their intended function are considered low risk.

However, the ATO has signalled that restructures, especially those resulting in less or avoiding royalty withholding tax, may still attract compliance attention, even if they fall within a low-risk zone. This includes restructures shifting contracts offshore while key activities remain in Australia.

Link: ATO releases draft guidance on cross-border software payments

Why it matters:
While the guidance offers a welcome framework to help businesses self-assess their risk, it also flags areas that may require review, even for those who consider themselves low risk. If your organisation is making payments to offshore software providers, it's important to understand where you sit on the ATO's risk spectrum and whether your arrangements may attract scrutiny.

ATO tightens country-by-country reporting exemptions

The ATO has introduced stricter criteria for exemptions from filing country-by-country reporting statements. Many taxpayers who previously relied on exemptions will now need to prepare and lodge additional information with the ATO.

From 1 January 2025, the ATO has revised the exemption request process and reined in circumstances where exemptions will be granted for filing country-by-country reporting statements (i.e. local file, master file and country-by-country report).

These changes reflect the ATO's continued focus on international tax risks and coincide with the expansion of local file reporting requirements effective from 1 January 2024.

In our view, the stricter criteria and the expansion of the local file reporting requirements will increase the compliance burden for taxpayers that do not present substantial transfer pricing risk, and that the information provided, in the majority of cases, is unlikely to substantially assist the ATO in risk profiling and identification.

Link: ATO tightens country-by-country reporting exemptions: what you need to know

Why it matters:
These developments are significant and may require MNEs to prepare master files and/or local files for the first time. Penalties for late filings can be severe – up to 500 times the usual amount (i.e. $165k for being 1 day late, up to $825k for more than 112 days late).

High Court decision on PepsiCo case

The High Court of Australia has dismissed the Tax Commissioner's (**the Commissioner**) appeals in *FCT v PepsiCo, Inc* [2025] HCA 301 (**PepsiCo**) - a case concerning embedded royalties and Diverted Profits Tax.

The High Court ruled that payments made by Schweppes Australia Pty Ltd to PepsiCo Beverage Singapore Pty Ltd for beverage concentrate were not royalties, but payments for goods only. These did not fall within the definition of "royalty" under section 6(1) of the Income Tax Assessment Act 1936 (**ITAA 1936**).

The Court unanimously held that even if the payments were considered royalties, they were not paid or credited to, nor derived by PepsiCo or Stokely-Van Camp under section 128B(2B) of the ITAA 1936. Therefore, no royalty withholding tax liability applied.

In relation to Diverted Profits Tax, the majority found that the Commissioner failed to establish a reasonable alternative postulate that would have triggered royalty withholding tax liability. Thus, the Diverted Profits Tax claim also failed.

Link: PepsiCo - High Court dismisses Commissioner's appeals on embedded royalties and Diverted Profits Tax

Why it matters:
This judgment reinforces that contractual architecture and actual cash-flow mechanics govern tax characterisation. Where a supply of goods co-exists with an intellectual-property license in an integrated distribution model, courts will test whether the price for goods truly functions as consideration for goods alone, and whether the license is supported by other reciprocal obligations rather than a hidden or "embedded" royalty.

If documentation, invoicing, title and risk all align with goods-only consideration, a re-characterisation into a royalty becomes harder to sustain.

Grant Thornton Australian tax insights
Employment taxes

New Rules for Payday Super

Effective 1 July 2026, employers will be required to make their employer superannuation contributions on payday. Contributions will need to be received by the superfund within 7 business days (not including a Saturday, Sunday or a day that is a public holiday for any Australian State or Territory). This is a change from the current rules where the payment due date is the 28th day of the month following the end of each quarter. A new penalty regime will apply where the deadline is not met.

Link: Payday super becomes law

Why it matters:
Foreign based Companies who run a shadow payroll for their expatriate employees will need to factor in the additional monthly reporting and cash flow management as a result of payday super. This also triggers the bigger question of the ATOs recent updates to real-time reporting processes (such as Single Touch Payroll). This gives the ATO greater visibility on employer employment tax compliance which leads to audits and reviews.

Fringe Benefits Tax – Plug-In Hybrid Vehicles (PHEV)

Effective 1 April 2025 PHEVs will no longer be entitled to the FBT exemption. However, if a commitment to the application or availability of a PHEV was made prior to 1 April 2025, and the car continues to be provided after that time (such as under a novated lease) under the same arrangement, then the PHEV FBT exemption will continue to apply (until any such time a new commitment to the application or availability of the car is made (such as with an extension of a contract).

Link: FBT exemption phase-out for plug in hybrids (PHEVs) effective from 1 April 2025

Why it matters:
International employers will need to ensure they keep track of car benefits to expatriate employees. Previously FBT exemptions will no longer apply and hence lead to added costs.

Fringe Benefits Tax – Car Parking

In February 2025, the Federal Court handed down its decision in the *Toowoomba Regional Council v Commissioner of Taxation [2025] FCA 161* case. In this case, the Court found in favour of the taxpayer, ruling that a car parking facility at the Grand Central Shopping Centre was not a "commercial car parking station" as it was not operated commercially for profit. The two main reasons the car park was held not to be "commercial" were that:

- The shopping centre provided a range of free parking; and
- The range of fees (including free parking) being charged by the shopping centre was complementary to the operation of the shopping centre, attracting business to the shopping centre, rather than being operated for profit in its own right.

The above verdict from the Federal Court is counter to the ATO view in Taxation Ruling 2021/2 ("TR2021/2"), which states that a commercial car parking station is:

- Permanent (not on-street parking); and
- Has car parking spaces available in its ordinary course of business to the public for all-day parking on a payment of a fee (charging more than a nominal fee).

The ATO has appealed the case to the Full Federal Court and will not be changing its view as expressed in TR2021/2 prior to the outcome of that appeal.

Link: Is FBT reprieve on the horizon for car parking in the suburbs?

Why it matters:
This will impact expatriate employees and car parking benefits provided to them. Employers will need to factor in added costs that may result due to FBT (an employer costs).

Grant Thornton Australian tax insights

Employment taxes (continued)

Updates to the Uber Case and its implications to payroll tax

In August 2025, the NSW Court of Appeal ("Court") overturned the previous decision of the Supreme Court in the case of *Uber Australia Pty Ltd v Chief Commissioner of State Revenue* [2024] NSWSC 1124. In the previous landmark case heard in October 2024, the NSW Supreme Court had ruled in Uber's favour, reversing an $81m liability previously imposed by the Chief Commissioner.

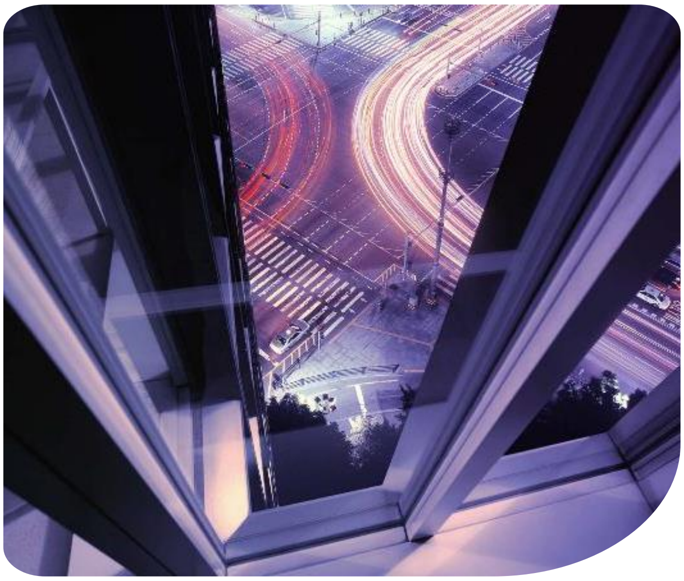
The Court previously found that while there was a 'relevant contract', the rider had a separate agreement directly with the driver with Uber merely acting as a payment collection agent by deducting a fare.

The NSW Court of Appeal concluded this service was fundamental to Uber's entire rideshare business model and therefore is a service provided directly to Uber under the Driver's contract.

The Court argued the driving service could not be considered ancillary as they were inseparable. Furthermore, there was a sufficient connection between the payments made by Uber to the driver and the work performed by the driver under the contract.

On this basis, the Court's verdict stated that payments made to Uber were subject to payroll tax as taxable wages.

Why it matters:
With globalisation, Australia is increasingly becoming a "hotspot" for many MNCs to expand their operations or acquire local Australian private companies. However, without the right structure being set up, Australia has seen many internationally owned Companies (such as Menulog – owned by the UK based Just Eat) closing down their operations due to additional employment tax costs (previously not factored in) that have added to the unsustainability of their operations (not considering other market factors).



Grant Thornton Australian tax insights
Customs

US Tariffs: Impacts on E-Commerce, Retailers, and Global Industries

Recent changes to US tariffs have added cost and complexity for businesses moving goods internationally, affecting e-commerce, retailers, manufacturers, and distributors alike. Higher duties on imported products are forcing companies to rethink sourcing, pricing, and compliance strategies. In this environment, accurate customs valuation and transparent reporting are critical to avoid penalties and maintain smooth cross-border operations.

Transfer pricing reviews are emerging as a key strategy to ensure alignment between customs values and intercompany pricing, helping businesses manage risk and optimise compliance. By proactively adapting to tariff changes and leveraging these reviews, companies can strengthen resilience and position for sustainable growth.

At the same time, global trade faces further uncertainty as the US, UK, and EU tighten rules on low-value imports. The EU will soon remove its €150 duty exemption, and the UK already requires VAT on goods up to £135 signalling a clear shift toward stricter compliance. Australia, with its current AUD 1,000 de minimis threshold, now faces questions about whether it will follow suit.

Link: The impact of US tariff changes on Australian businesses

Why it matters:
Tariff shifts and stricter import rules are driving up costs and compliance risks. Businesses that adapt with accurate valuation and transfer pricing alignment can avoid penalties, protect margins, and stay competitive.

Unlocking the Benefits of Australian Trusted Trader (ATT) Accreditation

In a climate of increasing regulatory complexity, ATT Accreditation equips businesses for faster, safer, and more efficient international trade.

The Origin Waiver

This standout benefit eliminates the need for Certificates of Origin on every shipment, delivering:

- Lower administrative burden
- Faster market access
- Reduced documentation costs and potential duty losses
- Greater assurance around compliance

We are seeing a notable increase in uptake of ATT registrations, driven largely by businesses seeking to access the Origin Waiver and streamline their trade processes.

Link: Unlocking the benefits of Australian Trusted Trader accreditation

Why it matters:
ATT accreditation reduces trade friction and compliance risk while cutting costs and speeding up market access. In an era of tightening global regulations, leveraging benefits like the Origin Waiver helps businesses stay competitive and reduces duty leakage.

Intellectual Property and Royalties: Customs Value Compliance in Australia and New Zealand

When importing goods into AU or NZ, businesses need to report a customs value that includes not just the purchase price listed in the sales contract, but also additional payments after import, such as royalties, licence fees, and other intellectual property-related charges, if these are a condition of the sale.

Both Australia and New Zealand offer voluntary disclosure options so companies can report these matters without facing penalties for previous non-disclosure.

Why it matters:
Incorrect customs valuation of royalties and IP fees can lead to penalties, audits, and reputational risk. Proactive disclosure and compliance ensure smooth imports, reduce legal exposure, and protect business integrity in Australia and New Zealand.

Grant Thornton Australian tax insights Indirect taxes

New GST Rulings - GSTR 2025/1 and GSTR 2025/2

GSTR 2025/1 and GSTR 2025/2 replace earlier rulings and provide updated guidance on the application of the GST-free rules in cross-border contexts.

GSTR 2025/1 clarifies when supplies made to non-residents lose GST-free status because the supply is "provided to another entity in Australia," offering detailed interpretive tests involving agreements, recipient relationships, and the nature of supply.

GSTR 2025/2 addresses situations where the "effective use or enjoyment" of a supply occurs outside Australia, setting out practical frameworks for determining the appropriate "providee" entity, whether use is wholly or partly overseas, and how to apportion mixed-use supplies.

Link: GSTR 2025/1 and GSTR 2025/2

Why it matters:
These rulings significantly enhance clarity for cross-border GST compliance by specifying how and when supplies to non-residents or supplies used abroad are treated for GST purposes. Businesses should review their arrangements to ensure compliance with the ATO's latest interpretive approach. Correct application helps avoid misclassification, unexpected GST liabilities, or overpayment of GST.

Supplementary Annual GST return

The ATO has introduced a new Supplementary Annual GST Return (**SAGR**) for public and multinational businesses that have undergone GST assurance reviews under the Top 100 or Top 1,000 programs. Starting from the 2024-25 financial year, these taxpayers must lodge the SAGR annually, providing detailed disclosures on GST governance, reconciliations to financial statements, and any material errors or uncertain positions. Lodgement deadlines align with income tax return dates, and penalties apply for late or incorrect submissions.

Link: New Supplementary Annual GST Return (SAGR) for Top 100 and Top 1,000 Taxpayers

Why it matters:
The SAGR significantly raises compliance expectations. It demands robust GST control frameworks, transparent reporting, and proactive remediation of identified issues. Failure to comply can lead to penalties and increased ATO scrutiny, making strong governance and accurate data management essential for mitigating risk and maintaining assurance ratings.

ATO Areas of Focus

The ATO have announced that they will focus on the following areas for GST purposes:

GST compliance failures – includes late BAS lodgements, missing payments, under-reporting, and incorrect BAS items; non-compliant businesses may be shifted to monthly reporting.

Governance and internal controls – focus on robust systems to support GST reporting and control frameworks.

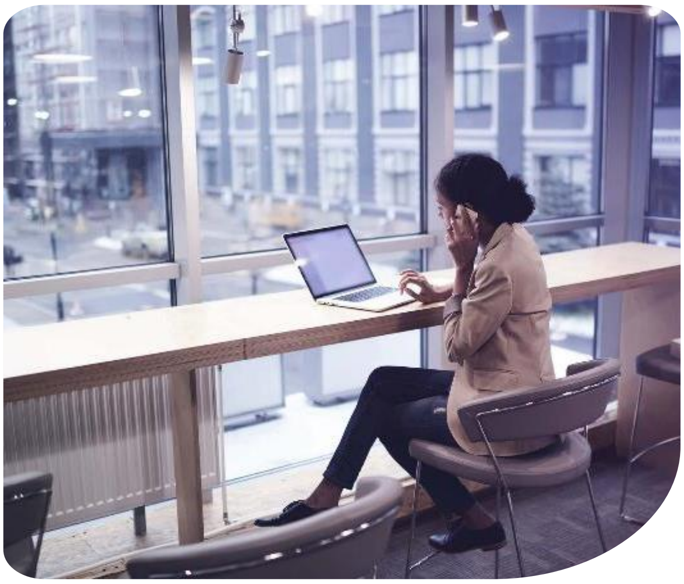
Data-driven GST monitoring – shifting from reactive to proactive detection using AI and predictive analytics.

Product classification – accurate GST treatment of food, sunscreen, medical aids, health.

Real property transactions – margin scheme, residential and mixed-use developments, build-to-rent, capital vs revenue, going concern treatment.

Financial services & insurance – GST classification, apportionment and attribution, proper entitlement to input tax credits and reduced input tax credits, reverse charge compliance.

M&A and IPOs – proper entitlement to input tax credits and reduced input tax credits, supplies to associates for no consideration.



Grant Thornton Australian tax insights Innovation incentives

Second R&D Tax Transparency Report Released

On 25 September 2025, the ATO released its second annual R&D Tax Transparency Report, detailing the R&D expenditure of over 12,500 entities for the 2022-23 financial year. The report highlights significant disparities in R&D spending, with expenditures ranging from $0 to over $200m. Total R&D expenditure reported was $16.2b, with small businesses making up 46 per cent of claimants. Public and multinational businesses accounted for the largest share of investment, claiming $8.7b.

Link: ATO R&D Tax Transparency Report

Why it matters:
The report reflects a growing global trend towards transparency and governance in tax incentives. Businesses should be aware that all R&D Tax Incentive claims will be publicly disclosed (with a two-year lag to protect sensitive information). This data provides valuable insights into industry R&D spending patterns and can help companies benchmark their own investment against peers. It also reinforces the need for robust compliance and documentation processes, as claims are subject to scrutiny and publication.

Proposed Gambling and Tobacco Exclusion

The Federal Government released an exposure draft proposing amendments to the R&D Tax Incentive to exclude activities relating to gambling and tobacco products. The draft legislation seeks to ensure that R&D activities connected to the development, production, or distribution of gambling and tobacco products are not eligible for the incentive, aligning the program with broader public policy and health objectives.

The exposure draft is currently open for consultation until 30 January 2026.

Link: Proposed R&D Tax Incentive changes: what harm minimisation means for business

Why it matters:
This proposed change highlights the increasing convergence of ESG considerations and tax policy, with a clear move to exclude activities that do not align with national interest. Businesses operating in, or adjacent to, these sectors should review their R&D activities and monitor the progress of this legislation.

Strategic Examination of R&D Discussion Paper

The Federal Government's Strategic Examination of R&D was announced in the 2024-25 Federal Budget. The review aims to foster greater Australian based innovation, research and commercialisation to drive national productivity and global competitiveness. As part of the wider R&D landscape, the R&D Tax Incentive is a core focus of the review, with proposals considering how the program can better support R&D, simplify eligibility, improve clarity and ensure Australia remains internationally competitive for innovation investment. The findings are expected to be released by the end of 2025.

Link: A focus on Australian Innovation: R&D Review Consultations

Why it matters:
Globally, governments are competing to attract the innovation dollar, and policy changes could reshape the landscape for funding and tax support. Companies should monitor developments closely, for any suggested updates to the R&D Tax Incentive program and for any potential innovation funding opportunities.

Grant Thornton Australian tax insights
Tax governance

ATO findings on top 100 and top 1000 programs

On 18 September 2025, the ATO published its findings reports from the Top 100 and Top 1000 justified trust assurance programs undertaken in the year ended 30 June 2025. The results were encouraging, showing that investment in these programs is achieving its goal of ensuring more taxpayers are paying the correct amount of tax.

With a significant number of taxpayers achieving high assurance ratings and improvements in tax governance, it's clear that the program is fostering greater compliance and transparency.

Link: Top 100 Findings, Top 1000 Findings

Why it matters:
As the Top 100 and Top 1,000 programs continue to evolve, taxpayers should maintain appropriate tax governance frameworks and practices to ensure ongoing tax compliance and reduce the likelihood of escalated ATO enquiries.

Quick updates you may have missed

- The Federal Government has committed to investing significant amounts of money over the next few years in the ATO Tax Avoidance Taskforce and the Shadow Economy Compliance Program, supporting stronger review of multinational enterprises.
- General Interest Charges (**GIC**) and Shortfall Interest Charges (**SIC**) on outstanding ATO debts and underpaid tax liabilities are no longer tax deductible from 1 July 2025.
- The government has extended the availability for instant asset write-offs for small businesses for eligible depreciating assets costing less than $20,000.
- From 1 July 2026, the personal income tax rate for income earned between $18,201 - $45,000 has reduced from 16% to 15% and will be further reduced to 14% from 1 July 2027. The Superannuation Guarantee rate has increased to 12% (from 11.5%) as of 1 July 2025.
- The ATO continue to focus on reviewing imported hybrid arrangements and related-party financing structures. MNEs should expect stricter documentation requirements for inbound financing.
- The ATO have tightened their criteria for lodgement extensions and remittance of GIC and SIC. Taxpayers should ensure they lodge returns and pay liabilities on time and should proactively engage with the ATO if they anticipate delays.

Contacts

Corporate Tax

Daniel Kave

National Managing Partner - Tax
+ 61 3 8663 6314
Daniel.Kave@au.gt.com

Murat Cihanger

Partner – Corporate Tax
+61 3 8663 6258
Murat.Cihanger@au.gt.com

Mark Trewhella

Partner – Corporate Tax
+61 8 9480 2174
Mark.Trewhella@au.gt.com

Jessica Brass

Director – Corporate Tax
+ 61 8 9480 2085
Jessica.Brass@au.gt.com

Michael Catterall

Partner – Corporate Tax
+61 2 8297 2535
Michael.Catterall@au.gt.com

Employment Solutions

Thomas Isbell

Head of Specialist Tax
+ 61 2 9286 5689
Thomas.Isbell@au.gt.com

GST

Anika Reside

Partner – Indirect Tax
+ 61 8 9480 2070
Anika.Reside@au.gt.com

Transfer Pricing

Jason Casas

Partner – Transfer Pricing
+61 3 8663 6433
Jason.Casas@au.gt.com

Innovation Incentives

Rebecca Iwanuscha

Partner – Innovation Incentives
+ 61 2 8297 2787
Rebecca.Iwanuscha@au.gt.com

Customs Tax

Richard Nutt

Partner – Transfer Pricing
+ 61 2 8297 2455
Richard.Nutt@au.gt.com

grantthornton.com.au

