



# Super Tax News

As at 30 June 2017



## Overview

The purpose of this communication is to provide you with a summary of significant superannuation tax news and announcements made in June 2017.

Please contact us if you would like to discuss or have any questions in respect of the items included in this edition of *Super Tax News*.

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# 1. ATO releases large super fund industry report

## Overview

The ATO has released their large super fund industry report. The report summarises the collective outcomes from the 2015-2016 risk differential framework (RDF) and tailored diagnostic reports that were delivered to large APRA funds and some key external administrators earlier this year.

By way of background: the RDF is designed to assist large super funds in assessing how well they meet all of their reporting obligations to the ATO.

The framework gives large super funds an overall risk categorisation based on the consequence and likelihood of their superannuation reporting obligations. The RDF assesses fund performance across 13 quantitative indicators

The tailored diagnostic reports provide recipients with an outline of how well they had met their reporting obligations to the ATO.

This is the third year in which the ATO has provided diagnostic reports to large super funds and have specifically noted that they have been pleased with the positive response from industry regarding the reports. In 2016, 99% of funds met their reporting obligations to the ATO to a 'good' or 'high' standard.

## KPMG comments

In its release, the ATO also notes that, as with income tax, it seeks sufficient evidence to indicate that it can justifiably trust that an entity is meeting its super obligations.

Where the ATO can reach this level of trust, the ATO states that this allows it to focus more on support and similar activities and less on compliance, in a framework that encourages continuous improvement in super industry governance and risk management.

KPMG's tax risk specialists are fully conversant with the ATO's concept of justified trust and the broader emerging governance and risk management framework sought by the ATO. Please contact your KPMG partner should you have enquiries or seek assistance in relation to these issues.

## References

[Large super fund industry report](#)

## 2. Superannuation amending tax legislation now law

### Overview

On 22 June 2017, *Treasury Laws Amendment (2017 Measures No. 2) Bill 2017* received Royal Assent, and thus became law.

By way of background, the Bill make changes to measures enacted through the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016* to support the integrity of the Government's super tax reform measures and ensure the law operates as intended.

The amendments relate to the following super tax reform measures:

- The transfer balance cap
- Changes to the concessional contribution rules
- Changes to the non-concessional contribution rules
- Objective of superannuation
- Changes to the transition to retirement income stream rules
- Capital gains tax relief for superannuation funds
- Streamlining of administrative processes.

### KPMG comments

Two of the more important elements in the amending Act are:

- The extension of the CGT uplift relief to Pooled Superannuation Trusts ("PSTs"); and
- Ensuring that a Transition to Retirement Income Stream does not lose entitlement to the 0% tax rate where the member has satisfied a further condition of release (including full retirement from the workforce, attaining age 65, permanent incapacity or terminal illness).

Both of these elements follow significant representations to Government by the superannuation industry, including by KPMG.

With the amending legislation now law, all superannuation funds and PSTs may now address the implementation issues associated with the super tax reform measures in full knowledge of the final form of the relevant legislation.

### Reference

[Bill and Explanatory Memorandum](#)

[Media release](#)

## 3. Other Superannuation Matters

### Foreign resident Capitals Gains Tax Bill awaits Royal Assent

On 15 June 2017, the Treasury Laws Amendment (Foreign Resident Capital Gains Withholding Payments) Bill 2017 passed the Senate without amendment and now awaits Royal Assent. By way of background, the Bill will amend the *Taxation Administration Act 1953* to modify the foreign resident capital gains withholding payments regime to increase the withholding rate to 12.5 per cent, and reduce the withholding threshold to \$750,000.

**Parliament of Australia website** | [Bill and Explanatory Memorandum](#)

### Productivity Commission review into efficiency of superannuation system

On 30 June 2017, the Treasurer, Scott Morrison, released the terms of reference for the third stage of this review.

The Commission is “required to assess whether Australia's superannuation system is competitive and efficient and to make recommendations to improve outcomes for members and system stability, and to reduce barriers to the competitiveness and efficiency of the system.”

The review is the third and final stage of the Commission’s program, and will use the criteria identified in Stage 1 to assess the current superannuation system and make recommendations on the default fund allocation model which were developed as part of Stage 2.

The Commission has been asked to focus on an assessment of system-wide long-term net returns and is to have particular regard to:

- Whether disclosure practices are resulting in a consistent and comparable basis for meaningful comparisons to be made between products;
- Whether additional disclosure would improve outcomes for members;
- Whether the system is minimising costs and fees (including, but not limited to exit fees) for given returns;
- What impact costs and fees have on members with low account balances, and what actions could be undertaken – whether by funds or policy changes – to ensure that these balances are not eroded needlessly; and
- Whether tailoring of costs and fees for different member segments would be appropriate.

The review commences on 1 July 2017. A draft report is expected in January 2018, with the final report to be provided to the Government by July 2018.

**Treasury website** [Treasury media release](#) [Terms of reference](#)

### ASIC release report on conduct in funds management

On 13 June 2017, the Australian Securities and Investments Commission (ASIC) released a report *Responsible entities' compliance with obligations: Findings from 2016 proactive surveillance program*. The report provided ASIC's findings from its 'proactive surveillance of responsible entities'.

The ASIC Commissioner, John Price, noted that whilst there is general commitment by entities to comply with their legal obligations there were a number of areas where they “fell short”. In particular, the following areas were noted:

- Managing conflicts of interest;
- Breach reporting;
- Custody;
- Risk management systems;
- Rewards and incentives; and
- Whistleblowing.

**ASIC website** | [Media release](#)

# Contact us

## Melbourne

### Income Tax



**Dana Fleming**  
**Sector Lead**

T: +61 3 9288 5871  
E: dfleming@kpmg.com.au



**Connie Van Werkum**  
**Partner**

T: +61 3 9288 6516  
E: cvanwerkum@kpmg.com.au



**Neil Lamb**  
**Partner**

T: +61 3 9838 4088  
E: nlamb@kpmg.com.au



**Ross Stephens**  
**Director**

T: +61 3 9288 6619  
E: rdstephens@kpmg.com.au



**Abbey Pearce**  
**Director**

T: +61 3 9838 4896  
E: abbeypearce@kpmg.com.au

### Indirect Tax



**Nick Kallinikios**  
**Partner**

T: +61 3 9288 6714  
E: nkallinikios@kpmg.com.au



**Anthony Versace**  
**Partner**

T: +61 3 9288 5934  
E: aversace@kpmg.com.au

## Sydney

### Income Tax



**Damian Ryan**  
**Partner**

T: +61 2 9335 7998  
E: dryan@kpmg.com.au



**Natalie Raju**  
**Partner**

T: +61 2 9335 7929  
E: nraju1@kpmg.com.au



**Bernard Finnegan**  
**Director**

T: +61 2 9335 7016  
E: bfinnegan@kpmg.com.au



**Peter Oliver**  
**Partner**

T: +61 2 9455 9520  
E: peteroliver@kpmg.com.au

### Indirect Tax



**George Spathis**  
**Partner**

T: +61 2 9455 9262  
E: gspathis@kpmg.com.au

Alternatively, visit our website at  
[kpmg.com.au](http://kpmg.com.au)

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