

EXPOSURE DRAFT

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Inserts for
**Tax and Superannuation Laws
Amendment (2015 Measures No. 5) Bill
2015: Third party reporting**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

- | | | |
|---------------|---------------------------------------------|--|
| 1. | | |
| 2. Schedule # | The day this Act receives the Royal Assent. | |
| 3. | | |
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Schedule #—Third party reporting

Part 1—Main amendments

Taxation Administration Act 1953

1 At the end of Division 396 in Schedule 1

Add:

Subdivision 396-B—Information about transactions that could have tax consequences for taxpayers

Guide to Subdivision 396-B

396-50 What this Subdivision is about

<p>The Commissioner can require certain entities to give information about transactions that could reasonably be expected to have tax consequences for other entities.</p>

Table of sections

Operative provisions

396-55	Reporting tax-related information about transactions to the Commissioner
396-60	Information required
396-65	Exemptions

Operative provisions

396-55 Reporting tax-related information about transactions to the Commissioner

- (1) An entity mentioned in column 1 of an item of this table must:
- (a) prepare a report in the *approved form setting out information the entity has about any transactions described in that item that happened during this period:
 - (i) a *financial year; or
 - (ii) such other period as the Commissioner specifies by legislative instrument for that item; and

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(b) give the report to the Commissioner before:

(i) the 31st day after the end of that period; or

(ii) such other time after the end of that period as the Commissioner specifies by legislative instrument for that item;

unless a notice or determination under section 396-65 provides that the entity is not required to do so.

Information to be reported by third parties about transactions

	Column 1	Column 2
Item	This entity:	must report information about this transaction:
1	a government related entity (within the meaning of the *GST Act), other than a *local governing body	the provision of a grant by the entity to an entity that has an *ABN
2	a government related entity (within the meaning of the *GST Act)	the provision of a *financial benefit: (a) by the entity to an entity; and (b) wholly or partly for a *supply of services; unless the supply of services is merely incidental to a supply of goods (within the meaning of the *GST Act).
3	a State or Territory	the transfer by an entity of a freehold or leasehold interest in real property situated in the State or Territory
4	*ASIC	a transaction about which data has been delivered to *ASIC under the *market integrity rules
5	a participant (within the meaning of Chapter 7 of the <i>Corporations Act 2001</i>) in an *Australian financial market	a transaction, involving the participant, that: (a) results in a change to the type, name, number or value of *reportable securities that are held by another entity; and (b) is made in the ordinary course of trading on an *Australian financial market
6	a company whose *shares are listed for quotation in the official list of an *Australian financial	a transaction that: (a) results in a change to the type, name, number or value of *reportable securities relating to the company that are held by an entity; and (b) is made otherwise than in the ordinary course of

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Information to be reported by third parties about transactions

	Column 1	Column 2
Item	This entity:	must report information about this transaction:
	market	trading on an *Australian financial market
7	the trustee of a unit trust	a transaction that: (a) results in a change to the type, name, number or value of units in the unit trust that are held by an entity; and (b) is made otherwise than in the ordinary course of trading on an *Australian financial market
8	the trustee of a trust (other than a unit trust)	a transaction that results in a change to the type, name, number or value of any *reportable securities: (a) that are held as assets of the trust; and (b) to which one or more entities are absolutely entitled as beneficiaries of the trust
9	an administrator of a payment system (within the meaning of the <i>Payment Systems (Regulation) Act 1998</i>)	a transaction involving an electronic payment if: (a) the transaction is facilitated by the payment system on behalf of an entity carrying on a *business; and (b) the transaction: (i) produces income for the business; or (ii) provides a refund, or cash, to a customer of the business

1 Note: An administrative penalty applies to a failure to give the report by that
2 time (see subsection 286-75(1)). An administrative penalty applies for
3 any false statements in the report (see section 284-75).

4 (2) **Reportable securities** means:

- 5 (a) securities within the meaning of subsection 92(1) of the
6 *Corporations Act 2001*; or
7 (b) in relation to an entity—securities within the meaning of
8 subsection 92(2) of that Act.

9 **396-60 Information required**

10 For the purposes of section 396-55, the information required by the
11 *approved form about a transaction:

- 12 (a) must relate to the identification, collection or recovery of a
13 possible *tax-related liability of the other entities involved in

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- 1 the transaction (disregarding any exemption under a *taxation
2 law that may apply to those other entities); and
3 (b) may relate to the identification of those other entities.

4 **396-65 Exemptions**

5 *Exemptions for particular entities*

- 6 (1) The Commissioner may, in writing, notify an entity that it:
7 (a) is not required to prepare and give reports under
8 section 396-55; or
9 (b) is not required to do so for specified transactions.
- 10 (2) An entity dissatisfied with a decision to:
11 (a) give it a notice under subsection (1); or
12 (b) not give it a notice under subsection (1);
13 may object against the decision in the manner set out in Part IVC.
- 14 (3) A notice under subsection (1) is not a legislative instrument.

15 *General exemptions*

- 16 (4) The Commissioner may, by legislative instrument, determine that
17 specified classes of entities:
18 (a) are not required to prepare and give reports under
19 section 396-55; or
20 (b) are not required to do so for specified transactions.

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1 **Part 2—Other amendments**

2 *Income Tax Assessment Act 1997*

3 **2 Subsection 995-1(1)**

4 Insert:

5 *ASIC* means the Australian Securities and Investments
6 Commission.

7 *Australian financial market* means a financial market (within the
8 meaning of Chapter 7 of the *Corporations Act 2001*) operating
9 under an Australian market licence granted under
10 subsection 795B(1) of that Act.

11 *market integrity rules* means rules made under section 798G of the
12 *Corporations Act 2001*.

13 *reportable securities* has the meaning given by
14 subsection 396-55(2) in Schedule 1 to the *Taxation Administration*
15 *Act 1953*.

16 *Taxation Administration Act 1953*

17 **3 Subparagraph 12-400(3)(b)(ii) in Schedule 1**

18 Omit “ASIC”, substitute “*ASIC”.

19 **4 Subsection 12-403(3) in Schedule 1**

20 Omit “ASIC”, substitute “*ASIC”.

21 **5 Section 269-50 in Schedule 1**

22 Omit “the Australian Securities and Investments Commission”,
23 substitute “*ASIC”.

24 **6 Part 5-25 (heading) in Schedule 1**

25 Repeal the heading, substitute:

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1 **Part 5-25—Record-keeping and other obligations** 2 **relating to taxpayers**

3 **7 Subsection 355-65(3) in Schedule 1 (table item 6A)**

4 Omit “the Australian Securities and Investments Commission”,
5 substitute “*ASIC”.

6 **8 Subsection 355-65(4) in Schedule 1 (table item 1)**

7 Omit “the Australian Securities and Investments Commission (*ASIC*)”,
8 substitute “*ASIC”.

9 **9 Subsection 355-65(4) in Schedule 1 (table item 1)**

10 Omit “by ASIC”, substitute “by *ASIC”.

11 **10 Subsection 355-65(4) in Schedule 1 (table items 2, 3, 4 and** 12 **5)**

13 Omit “ASIC” (wherever occurring), substitute “*ASIC”.

14 **11 Paragraph 355-70(4)(l) in Schedule 1**

15 Repeal the paragraph, substitute:

16 (l) *ASIC.

17 **12 Paragraph 355-70(7)(d) in Schedule 1**

18 Repeal the paragraph, substitute:

19 (d) *ASIC;

20 **13 Division 396 in Schedule 1 (heading)**

21 Repeal the heading, substitute:

22 **Division 396—Third party reporting**

23 **Table of Subdivisions**

24 396-A FATCA

25 396-B Information about transactions that could have tax
26 consequences for taxpayers

27 **14 Before section 396-1 in Schedule 1**

28 Insert:

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1 **396-1A What this Division is about**

2 Financial institutions must give the Commissioner information for
3 the purposes of the FATCA Agreement.

4 Certain entities must give the Commissioner information about
5 transactions that could reasonably be expected to have tax
6 consequences for other entities.

7 **Subdivision 396-A—FATCA**

8 **Guide to Subdivision 396-A**

9 **15 Section 396-1 in Schedule 1 (heading)**

10 Repeal the heading, substitute:

11 **396-1 What this Subdivision is about**

12 **16 Subsection 396-20(1) in Schedule 1**

13 Omit “this Division”, substitute “this Subdivision”.

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1 **Part 3—Application of amendments**

2 **17 Application**

3 The amendment made by item 1 applies in relation to transactions
4 happening on or after 1 July 2016.