

PDR No.

s 11C(1)(d)

Minister for Revenue and Financial Services cc: Treasurer

**UPCOMING BOARD OF TAXATION MEETING — TALKING POINTS****Timing:** The Board of Taxation is meeting on 6 July 2016.**KEY POINTS**

- You will be attending the next Board of Taxation meeting on 6 July 2017 to talk about the Government's tax policy priorities and to listen to the Board's work for the year ahead. You will have the opportunity to speak for 10 minutes before taking questions.
- The attached talking points (Attachment A) cover the following agenda items and other priorities:
  - Agenda items
    - : High Wealth Individuals and Residency;
    - : Tax and the Sharing Economy;
    - : Black Economy Taskforce;
    - : Mandatory Disclosure Rules;
    - : Trusts; and
    - : Referrals for new proposed giving structures.
  - Other non-agenda priorities requested by your Office:
    - : Board of Tax Bill;
    - : Islamic Finance;
    - : Division 7A;
    - : Asset Merger Roll-over relief;
    - : Unrealised reports;
    - : Tax transparency code; and
    - : Staples securities.
- Additional background material (Attachment B) is provided on:
  - the yy; and
- The topics covered in this brief are not comprehensive. Should you or your Office require material on other issues, we would be happy to provide it.

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Contact Officer: s 22 Ext: s 22

Manager  
Large Corporates Unit**Consultation:** Corporate and International Tax Division, Individuals and Indirect Tax Division and Tax Framework Division.

## ATTACHMENT A — TALKING POINTS

### Agenda Item Talking Points

- Let me at the outset record my appreciation for the Board's contribution to tax policy development.
  - The Government values the Board's expert advice and analysis. As I mentioned back in December, your report on the implementation of the OECD anti-hybrid rules and the work you have done on the voluntary tax transparency code are two cases in point, as were the reports on the application of the anti-hybrid rules to regulatory capital and collective investment vehicle non-resident withholding taxes.

### High Wealth Individuals and Residency

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

### Tax and the Sharing Economy

#### Talking Points

- The Government appreciates the Board's work in preparing its report on *Tax and the Sharing Economy*.
- I understand that the report notes that sharing economy participants should be treated in the same way as participants in the traditional economy from a tax perspective and that the current tax law generally results in appropriate outcomes.
- I look forward to considering the issues and recommendations contained in the report.

### Background

- The Board <sup>s 11C(1)(d)</sup> to consider issues surrounding tax related to the sharing economy, in particular: when sharing economy activities transition from a 'hobby' to a business; and if the current tax system adequately addresses sharing economy enterprises.
- The Board has made four recommendations.
  - Recommendation 1: Additional advice and guidance, and a communication strategy to raise community awareness of tax obligations associated with sharing economy participation.
  - Recommendation 2: An information reporting regime requiring sharing economy platforms that operate in Australia to provide information on income derived by participants to the ATO on a once-a-year basis.
  - Recommendation 3: That the information reporting regime be implemented from a whole-of-Government perspective so that information is reported once and used as often as necessary.
  - Recommendation 4: That the Government conduct further consultation on options to simplify the tax consequences on disposal of assets used to produce small amounts of income.

## **Black Economy Taskforce**

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## **Mandatory Disclosure Rules**

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## **Trusts**

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## **Bare Trusts**

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## **Referrals for new proposed giving structures**

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## **Non-Agenda Item Talking Points**

### **Board of Tax Bill**

- [please provide 1 talking point here].
- [Please address policy issues and regulatory issues].
- [Please address the multiple public officer issue and private use of motor vehicles (FBT misuse)].
  - [please provide 1-2 background points here].

## **Asset Back Finance (Islamic Finance)**

- [please provide 1 talking point here]. [Please add point addressing Board's original proposal/s vs the Government's response, if required]
  - [please provide 1-2 background points here].

## **Asset Merger Roll-over Relief**

- The Government is still considering the Board's recommendation for asset merger roll-over relief.

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## Division 7A

- [please provide 1 talking point here]. [Perhaps add defensive point addressing Board's original proposal vs the Government's response, if required] [Please include a state of play]
  - [please provide 1-2 background points here].

## Unreleased BoT reports [Perhaps add defensive point, if required]

- [please provide 1 talking point here].
  - [please provide 1-2 background points here].

## Tax Transparency Code (the Code) [Please amend or improve]

- The Code was developed by the Board of Taxation at the Treasurer's request. There has been strong support for the Code (including for it to remain voluntary) from the business community and advisers.
  - The Voluntary Tax Transparency Code (the Code) is a set of principles and 'minimum standards' to guide disclosure of tax information by businesses.
  - The Corporate Tax Association, Group of 100 and Minerals Council of Australia have publicly endorsed the Code.
    - : As at 23 May 2017, **90** organisations are signatories to the code. Of these, **45** organisations have published their tax transparency reports with their annual reports.

## Staples securities [Please add state of play]

- [please provide 1 talking point here].

- [please provide 1-2 background points here].

## ATTACHMENT B — ADDITIONAL INFORMATION

### Topic **X**

*[Only add your topic to this section if the MRFS requires the details (one page limit)]*

### Topic **Y**

*[Only add your topic to this section if the MRFS requires the details (one page limit)]*

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### Board of Taxation Meeting, Friday 06 July 2017

#### Agenda Item 6: Tax and the Sharing Economy

##### Key points

- The report reflects the Board of Taxation's (the Board's) view that sharing economy participants should be treated in the same way as participants in the traditional economy from a tax perspective.
- The Board considers the current tax law generally results in appropriate outcomes but finds its practical application presents some challenges with implications for compliance.
  - In particular, the Board finds that although the existing guidance material is good, there is a lack of awareness among sharing economy participants of their tax obligations.
  - The Board also recommends the introduction of a reporting regime for platform operators to improve compliance.
- Treasury is generally comfortable with the Board's four recommendations which are relatively uncontroversial (see **Background**).
- However Treasury notes the report does not analyse whether the sharing economy should be treated differently to the traditional economy.
  - Treasury considers that due to the lower barriers to entry, the sharing economy arguably presents an increased risk to revenue, for example through excessive deductions claims.

##### **Background**

- The Board s 11C(1)(d) to consider issues surrounding tax related to the sharing economy, in particular: when sharing economy activities transition from a 'hobby' to a business; and if the current tax system adequately addresses sharing economy enterprises.
- The Secretariat circulated a draft final report on Thursday 29 June 2017 for the Board's approval.
- The Board found the application of the current income tax law to the sharing economy presents specific challenges including:
  - Lack of appreciation of tax obligations of among sharing economy participants;
  - Confusion around the business / hobby distinction;
  - Difficulties in tracking and determining eligibility of expenses related to participating in the sharing economy;
  - Increased risk for black economy activity (intentional non-reporting of sharing economy income); and
  - Confusion around the tax consequences on disposal of private assets used to generate sharing economy income.

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- In response, the Board has made four recommendations.
  - Recommendation 1: Additional advice and guidance, and a communication strategy to raise community awareness of tax obligations associated with sharing economy participation.
  - Recommendation 2: An information reporting regime requiring sharing economy platforms that operate in Australia to provide information on income derived by participants to the ATO on a once-a-year basis.
  - Recommendation 3: That the information reporting regime be implemented from a whole-of-Government perspective so that information is reported once and used as often as necessary.
  - Recommendation 4: That the Government conduct further consultation on options to simplify the tax consequences on disposal of assets used to produce small amounts of income.
- The Board also recommends the Government consider any related recommendations of the Black Economy Taskforce (in relation to recommendations 2 and 3).
- In addition, the Board considered but does not recommend the following policy options:
  - Use of existing ATO powers of general administration of the tax law to simplify compliance for sharing economy participants, i.e. administrative safe harbours.
  - Legislative tax exemption for sharing economy income up to threshold, i.e. a legislative safe harbour.
  - A withholding tax applied to sharing economy income by sharing economy platforms.
    - : However, the Board considers that a withholding tax regime should be considered more closely if there is evidence of widespread non-compliance despite the implementation of the information reporting regime.