

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Tax
Transparency) Bill 2018: Transparency
of taxation debts**

Commencement information

Column 1	Column 2	Column 3
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Provisions	Commencement	Date/Details
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1. Schedule #	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
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Schedule #—Transparency of tax debts

Income Tax Assessment Act 1997

1 Subsection 995-1(1)

Insert:

credit reporting bureau has the meaning given by subsection 355-72(6) in Schedule 1 to the *Taxation Administration Act 1953*.

Taxation Administration Act 1953

2 After section 355-70 in Schedule 1

Insert:

355-72 Exception—disclosure to credit reporting bureaus

Exception—entities in declared class of entities

- (1) Section 355-25 does not apply if:
- (a) the entity is a *taxation officer; and
 - (b) the record is made for, or the disclosure is to, a *credit reporting bureau; and
 - (c) the record or disclosure is of information that relates to the *tax debts of an entity (the *primary entity*) that is included in a class of entities declared under subsection (5) of this section; and
 - (d) the record or disclosure is for the purpose of enabling the credit reporting bureau to prepare, issue, update, correct or confirm credit worthiness reports in relation to the primary entity; and
 - (e) in the case of a disclosure of information other than for the purposes of updating, correcting or confirming information previously disclosed under this exception—both:
 - (i) the Inspector-General has been consulted on the disclosure; and
 - (ii) 21 days have passed after a notice under subsection (2) of this section was given to the primary entity for the disclosure.

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Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Notice of disclosure

- (2) The Commissioner must notify a primary entity if:
- (a) information that relates to the primary entity is to be disclosed to a *credit reporting bureau under this section; and
 - (b) the information is not information that updates, corrects or confirms the information previously disclosed under the exception in subsection (1).
- (3) The notice must:
- (a) be in writing; and
 - (b) explain the type of information that is to be disclosed to the *credit reporting bureau; and
 - (c) set out the amount of any *tax debts payable by the primary entity at the time the notice is given by the Commissioner; and
 - (d) explain how the primary entity may make a complaint in relation to the proposed disclosure of the entity's information; and
 - (e) be served on the primary entity.

Exception—entities no longer in declared class of entities

- (4) Section 355-25 does not apply if:
- (a) the entity is a *taxation officer; and
 - (b) the record is made for, or the disclosure is to, a *credit reporting bureau; and
 - (c) the record or disclosure is of information that relates to the *tax debts of an entity that:
 - (i) has had information previously disclosed under the exception in subsection (1) of this section; and
 - (ii) is no longer an entity that is included in a class of entities declared under subsection (5) of this section; and
 - (d) the record or disclosure is of information that relates to why the entity to which the information relates is no longer included in a class of entities declared under subsection (5) of this section; and

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(e) the record or disclosure is for the purpose of enabling the credit reporting bureau to update or correct credit worthiness reports in relation to the entity to which the information relates.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Class of entities

(5) The Minister may, by legislative instrument, declare classes of entities for the purposes of paragraph (1)(c), subparagraph (4)(c)(ii) and paragraph (4)(d).

Credit reporting bureau

(6) An entity is a **credit reporting bureau** if the entity is recognised by the Commissioner as an entity that prepares and issues credit worthiness reports in relation to other entities.

(7) The Commissioner must keep and publish a list of credit reporting bureaus on the Australian Taxation Office website.

(8) The list of credit reporting bureaus is not a legislative instrument.

3 At the end of Subdivision 355-C in Schedule 1

Add:

355-215 Exception—on-disclosure of information disclosed by credit reporting bureaus

Section 355-155 does not apply if:

- (a) the information was originally disclosed under the exception in subsection 355-72(1) or (4); and
- (b) the entity that makes the record, or discloses the information, is not a *credit reporting bureau.

Note: A defendant bears an evidential burden in relation to the matters in this section: see subsection 13.3(3) of the *Criminal Code*.

4 Application of amendments

The amendments made by this Schedule apply in relation to records and disclosures of information made on or after the commencement of this Schedule (regardless of when the information was acquired).