

## EXPOSURE DRAFT



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# Tax Debt Information Disclosure Declaration 2018

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I, KELLY O'DWYER, Minister for Revenue and Financial Services, make this Declaration under subsection 355-72(5) in Schedule 1 to the *Taxation Administration Act 1953*.

Dated

Kelly O'DWYER **DRAFT ONLY—NOT FOR SIGNATURE**  
Minister for Revenue and Financial Services

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## 1 Name

This Declaration is the *Tax Debt Information Disclosure Declaration 2018*.

## 2 Commencement

This Declaration commences on the day after it is registered.

## 3 Authority

This Declaration is made under subsection 355-72(5) in Schedule 1 to the *Taxation Administration Act 1953*.

## 4 Definitions

In this Declaration:

*Act* means the *Taxation Administration Act 1953*.

*Inspector-General of Taxation* means the Inspector-General of Taxation referred to in section 6 of the *Inspector-General of Taxation Act 2003*.

*tax debt information* means information relating to the tax debts of an entity that may be disclosed under subsection 355-72(1) or subsection 355-72(4) in Schedule 1 to the *Taxation Administration Act 1953*.

## 5 Interpretation

Paragraph 13(1)(b) of the *Legislation Act 2003* has effect in relation to this Declaration as if the reference in that paragraph to the enabling legislation was a reference to Schedule 1 to the Act.

Note 1: The effect of modifying paragraph 13(1)(b) of the *Legislation Act 2003* is that expressions have the same meaning in this Part as in Schedule 1 to the Act as in force from time to time.

Note 2: Under subsection 3AA(2) of the Act, an expression has the same meaning in Schedule 1 as in the *Income Tax Assessment Act 1997*.

## 6 Purpose of this Declaration

The purpose of this Declaration is to declare the class of entity whose tax debt information may be disclosed to credit reporting bureaus by taxation officers under subsection 355-72(1) in Schedule 1 to the Act. This Declaration also declares the class of entity for the purposes of subsection 355-72(4) in Schedule 1 to the Act (disclosure of information relating to the tax debts of entities no longer in the declared class of entities).

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### 7 Class of entity for which disclosure of tax debt information is permitted

#### *Core criteria for determining the class of entities*

- (1) An entity is included in the class of entities for the purposes of paragraphs 355-72(1)(c) and 355-72(4)(c) in Schedule 1 to the Act if:
  - (a) the entity is registered in the Australian Business Register under section 11 of *A New Tax System (Australian Business Number) Act 1999*; and
  - (b) the entity has a tax debt, of which at least \$10,000 is overdue for more than 90 days; and
  - (c) the entity is *not* excluded from having their information disclosed to a credit reporting bureau for the purposes of subsection (2); and
  - (d) the entity is *not* effectively engaging to manage their tax debt in accordance with subsection (3); and
  - (e) the Commissioner has taken reasonable steps to confirm that the Inspector-General of Taxation does not have an active complaint from the entity that is, or could be, the subject of an investigation under paragraph 7(1)(a) of the *Inspector-General of Taxation Act 2003* relating to the Commissioner's intention to disclose the tax debt information of the entity.

#### *Excluded entities*

- (2) For the purposes of paragraph (1)(c), the following entities are excluded from having their tax debt information disclosed to a credit reporting bureau:
  - (a) deductible gift recipients;
  - (b) not-for-profit entities;
  - (c) government entities;
  - (d) complying superannuation entities.

#### *Effective engagement*

- (3) For the purposes of paragraph (1)(d), an entity is *not* effectively engaging to manage their tax debt, unless any of the following conditions are met:
  - (a) the entity has entered into an arrangement with the Commissioner to pay their tax debt by instalments under section 255-15 in Schedule 1 to the Act and the entity is complying with that arrangement;
  - (b) the entity has objected against a taxation decision (within the meaning of section 14ZL of the Act) to which the tax debt relates in the manner set out in Part IVC of the Act;
  - (c) the entity has, under section 14ZZ of the Act, applied to the Administrative Appeals Tribunal for review or appealed to the Federal Court of Australia against a decision made by the Commissioner to which the tax debt relates.