

EXPOSURE DRAFT



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Taxation Administration (Tax Debt Information Disclosure) Declaration 2019

I, Michael Sukkar, Assistant Treasurer, make the following Declaration.

Dated 2019

Michael Sukkar [DRAFT ONLY—NOT FOR SIGNATURE]
Assistant Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Taxation Administration (Tax Debt Information Disclosure) Declaration 2019*.

2 Commencement

- (1) Each provision of instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Taxation Administration Act 1953*.

4 Definitions

In this instrument:

objection decision has the same meaning as in section 2 of the Act.

reviewable decision has the same meaning as in section 10 of the *Superannuation Industry (Supervision) Act 1993*.

taxation objection has the same meaning as in section 14ZL of the Act.

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 Act.

the Act means the *Taxation Administration Act 1953*.

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Part 1 Preliminary

Section 5

5 Interpretation

Expressions used in this instrument have the same meaning as in the *Income Tax Assessment Act 1997*.

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

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Classes of entities whose tax debt information can be disclosed to credit reporting bureaus **Part 2**

Section 6

Part 2—Classes of entities whose tax debt information can be disclosed to credit reporting bureaus

Note: This instrument declares the class or classes of entities 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.

6 Declared class of entities—taxpayers carrying on a business or similar venture with total tax debts exceeding \$100,000 for more than 90 days and who fail to effectively engage with the Commissioner

- (1) For the purposes of section 355-72 in Schedule 1 to the Act, entities that meet all of the following are in a class of entities declared under subsection 355-72(5) in Schedule 1 to the Act:
 - (a) the entity is registered in the Australian Business Register under the *A New Tax System (Australian Business Number) Act 1999*, otherwise than as:
 - (i) a deductible gift recipient; or
 - (ii) a complying superannuation fund; or
 - (iii) a registered charity; or
 - (iv) a government entity;
 - (b) the entity has one or more tax debts, the total of which is at least \$100,000, that have been due and payable for more than 90 days;
 - (c) the entity satisfies one of the following:
 - (i) the entity does *not* have an active complaint with the Inspector-General of Taxation concerning the disclosure of tax debt information of 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*; or
 - (ii) the entity *has* an active complaint with the Inspector-General of Taxation concerning the disclosure of tax debt information of 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*, but after taking reasonable steps to confirm whether the Inspector-General has such a complaint, the Commissioner does not become aware of the complaint.

Tax debts that are not to be included in total tax debts

- (2) For the purposes of paragraph (1)(b), disregard a tax debt to the extent that:
 - (a) the entity has entered into an arrangement with the Commissioner to pay the tax debt by instalments under section 255-15 in Schedule 1 to the Act and the entity is complying with that arrangement; or
 - (b) all of the following are satisfied:
 - (i) the entity has lodged a taxation objection in relation to the tax debt in the manner set out in Part IVC of the Act; and
 - (ii) the objection has not been withdrawn; and
 - (iii) the Commissioner has not made an objection decision; or
 - (c) all of the following are satisfied:

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Part 2 Classes of entities whose tax debt information can be disclosed to credit reporting bureaus

Section 6

- (i) the entity has, under section 14ZZ of the Act, applied to the Administrative Appeals Tribunal for review of, or appealed to the Federal Court of Australia against, an objection decision in relation to tax debt; and
 - (ii) the application for review or appeal has not been withdrawn or refused; and
 - (iii) the proceedings of the Administrative Appeals Tribunal or Federal Court of Australia (including any related appeals) have not come to an end; or
- (d) all of the following are satisfied:
- (i) the entity has requested a reconsideration of a reviewable decision in relation to the tax debt in the manner set out in section 344 of the *Superannuation Industry (Supervision) Act 1993*; and
 - (ii) the request has not been withdrawn; and
 - (iii) the decision has not been confirmed, revoked or varied; or
- (e) all of the following are satisfied:
- (i) the entity has, under section 344 of the *Superannuation Industry (Supervision) Act 1993*, applied to the Administrative Appeals Tribunal for review of a decision in relation to the tax debt; and
 - (ii) the application for review has not been withdrawn or refused; and
 - (iii) the proceedings of the Administrative Appeals Tribunal (including any related appeals) have not come to an end; or
- (f) the entity *has* an active complaint with the Inspector-General of Taxation in relation to the tax debt that is, or could be, the subject of an investigation under paragraph 7(1)(a) of the *Inspector-General of Taxation Act 2003*, and following the taking of reasonable steps to confirm whether the Inspector-General has such a complaint, the Commissioner becomes aware of the complaint.

Note: Tax debts are disregarded where the entity is effectively engaging with the Commissioner to manage the debt or is taking action in accordance with the law to dispute the debt.