

28 May 2020

Department of Industry, Science, Energy and Resources
Industry House
10 Binara St
CANBERRA ACT 2600

By email: paymenttimes@industry.gov.au

Dear Madam/Sir

Payment Times Reporting Rules – exposure draft and consultation paper

As the representatives of over 200,000 professional accountants in Australia, Chartered Accountants Australia and New Zealand (CA ANZ) and CPA Australia (the “major accounting bodies”) appreciate the opportunity to provide feedback on the payment times reporting rules exposure draft and associated consultation paper. Our comments focus on the definition of small business.

The definition of small business in the draft Rule is any business with an annual turnover of less than \$10 million (annual turnover being defined by reference to the Income Tax Assessment Act (ITAA)) AND is described as a small business in the Payment Times Small Business Identification Tool.

Section 328-120 of the ITAA defines annual turnover as total ordinary income derived in the course of carrying on business but excludes non-assessable non-exempt income and ordinary income the entity derives from sales of retail fuel. It also includes potential adjustments for transactions between associates and part year adjustments. The Payment Time Small Business Identification Tool, which large businesses will be required to use, is still being developed by the Department and has not been exposed to public consultation and information about its potential operation is scant in the consultation paper.

The major accounting bodies remain firmly of the view that key legislative concepts, such as the definition of small business, should be contained in legislation not rules.

The major accounting bodies recommend that the definition of small business be changed, from one that depends on tax concepts and a payment times small business identification tool, to an expenditure threshold. An expenditure threshold would require a large business to report all invoices for a supplier from which they procure less than \$X million of goods and services annually. In this way the expenditure threshold acts as a proxy for whether a supplier is a small business, without having to go through a verification process.

The use of an expenditure threshold as a proxy for small business offers a simple, effective way to assist business use existing accounting systems to identify and report, and will cover most small businesses (provided that an appropriately high threshold is set), and potentially some medium sized businesses (which given that medium business is also likely to have the same problems negotiating with large business would also be an appropriate policy outcome).

This will:

- Reduce the compliance costs for business, which the regulatory impact statement in the explanatory memorandum Payment Times Reporting Bill 2020 and Payment Times Reporting (Consequential Amendments) Bill 2020 notes “will increase compliance costs for reporting entities by an average of **\$22.5 million per year**, on an annualised basis”. Our members have advised us that it is common practice for them to analyse payment times by expenditure thresholds and that this is done using existing accounting software packages.
- Substantially reduce the need to provide **\$10 million** of government funding over four years from 2019-20 (including \$3.4 million in capital funding) for the Payment Times Reporting Framework, by eliminating the need to establish and maintain a Small Business Identification Tool.
- alleviate the need to change the law to allow the Australian Taxation Office to exchange data about small business with the Payment Times Reporting Regulator.
- remove the need to have mechanisms in place for businesses to remove themselves if they do not want to be identified as small.

Additionally, greater clarity around what is intended by rule 9(d) would be beneficial. Rule 9(d) states that “any small business invoice that is not paid under a trade credit arrangement is to be disregarded”. This could be done in the explanatory statement to the rules through examples of the types of invoices or arrangements the Minister intends should be disregarded from payment times reporting.

If you have any questions about this submission, please contact either Susan Franks (CA ANZ) susan.franks@charteredaccountantsanz.com.au or Gavan Ord (CPA Australia) at gavan.ord@cpaaustralia.com.au.

Yours sincerely



Simon Grant FCA

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