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The Treasury

TREASURY LAWS AMENDMENT (2022 MEASURES NO. 2) BILL 2022 SUMMARY OF CONSULTATION PROCESS

Schedule 2 – Shadow Economy – introducing a sharing economy reporting regime

The former Government announced on 16 December 2019 (as part of the 2019-20 Mid-Year Economic and Fiscal Outlook) that it would introduce a third-party reporting regime to require sharing economy online platforms to report identification and income information regarding participating sellers to the ATO for data matching purposes.

This measure was originally included in Treasury Laws Amendment (2021 Measures No. 7) Bill 2021, which was introduced into Parliament on 25 August 2021.

The Bill will give effect to the measure by extending existing third-party reporting requirements to operators of electronic platforms. Platform operators would be required to report to the ATO information regarding certain transactions that occur on their platforms, such as seller identification and payment details. This information would then assist the ATO in its administration of the tax system and ensure sellers on these platforms are meeting their tax obligations.

Consultation process

Industry has been consulted throughout the development of the measure to inform its design and implementation.

On 23 January 2019, Treasury released *Tackling the black economy, A sharing economy reporting regime, A consultation paper in response to the Black Economy Taskforce Final Report, January 2019*. As part of this consultation process Treasury held 25 sessions with stakeholders in Sydney, Melbourne and by teleconference. Treasury received 36 written submissions in response to the consultation paper.

In October to November 2020, Treasury and the ATO held virtual meetings with 23 digital platforms on the sharing economy reporting regime to gain further insights into how platforms operate to inform the draft legislation.

On 6 July 2021, Treasury released the draft Bill for public consultation. 17 written submissions were received.

Treasury has also engaged with the OECD in relation to the *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy* (Model Rules), which were developed and approved by OECD member nations. Australia will explore possible options for OECD international cooperation and data sharing once the domestic sharing economy reporting regime is in place. The Treasury also liaised with other government agencies, including the ATO around the design, implementation and administration of the reporting requirements.



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Submissions can be viewed on the Treasury website www.treasury.gov.au.

Summary of key issues

Overall, platform operators have expressed a general willingness to comply with the reporting requirement, with a strong preference for minimising compliance burdens, aligning with international standards, and ensuring that reporting obligations apply broadly across all business models and industries.

Consultation Paper

Key themes raised in response to the Consultation Paper included: preference for reporting by platforms instead of financial institutions due to the availability of better data, having a level playing field for participants, having a light touch regulatory approach, utilising pre-filing of tax returns where possible, verification of information, raising education and awareness of associated tax obligations, privacy and approaches to enforcement.

The consultation paper proposed two main options as to who should report the relevant information – sharing economy platforms or financial institutions. The majority of submissions received expressed support for a reporting regime with a preference for reporting by sharing economy platforms.

Following receipt of all submissions, each suggestion was evaluated to further refine and develop the various elements making up the reporting requirement. As a result of consultation, introducing a reporting requirement for sharing economy platforms was seen as the best option for improving tax transparency and compliance and was used as the basis to prepare the exposure draft legislation.

Exposure Draft Legislation

Key themes raised in response to exposure draft legislation included: having a minimum reporting threshold, ensuring a level playing field for all, balancing the regulatory burden, avoiding duplicative reporting, frequency of reporting, alignment with other international regimes, administrative flexibility to allow platforms to report to their local tax authority, clarification around key concepts and additional advice and guidance as to how the ATO will administer the law.

Another strong view expressed in submissions received was ensuring the Australian reporting requirements would reflect elements within the OECD Model Rules. Therefore, extending the existing third-party reporting rules to reflect elements in the OECD Model Rules was incorporated into the design of the domestic reporting obligation.

As a result of consultation, the ATO was asked to develop advice and guidance products to help communicate and educate impacted entities. The Explanatory Memorandum was also updated to further provide clarity around the themes raised during consultation.

Suggestions that were not adopted included changes to the concept of 'employee' and 'contractor' which was outside the scope of this measure.



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Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au.

Thank you to all participants in the consultation process.