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General Manager
Tax System Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: thirdpartyreporting@treasury.gov.au

Dear Sir or Madam

SUBJECT: SUBMISSION ON DISCUSSION PAPER IN RELATION TO ENHANCED THIRD PARTY REPORTING, PRE-FILLING AND DATA-MATCHING

CPA Australia represents the diverse interests of more than 150,000 finance, accounting and business professionals in 121 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders.

Against this background we provide this submission concerning the Treasury Discussion Paper entitled 'Improving tax compliance – enhanced third party reporting, pre-filling and data matching' which issued on 7 February 2014.

General comments

CPA Australia broadly supports proposed legislative amendments to extend the volume and quality of data reported by certain third parties as outlined in the Treasury Discussion Paper.

We have long advocated the use of such measures to enhance the data-matching capacities of the Australian Taxation Office (ATO) to identify unreported assessable income and capital gains derived by individual taxpayers. As a corollary we believe that access to such data will in the long-term improve the efficacy of 'pre-filling reports' available to registered tax agents and taxpayers in accurately completing individual income tax returns.

However, we have the following concerns regarding the implementation of this proposal:

1. We believe that the information reported in current pre-filling reports may be perceived by Treasury, the ATO and other stakeholders as having a very high degree of reliability for tax agents and taxpayers completing individual tax returns. It would appear that this is the basis on which the ATO is proposing the introduction of a substantially pre-prepared income tax return for individual taxpayers from the year ended 30 June 2014 onwards.

2. However, our practitioner members have repeatedly stressed that in practice current pre-filling reports often contain errors including, amongst others, omitted salary income, omitted interest and dividend income, the inclusion of a minor's income in the parent's assessable income or a failure to recognise that interest and dividend income may be jointly held. The efficacy of such reports is also dependent on the time at which third party providers provide such data to the ATO which currently varies depending on when the service provider is in a position to provide such data. Accordingly, such reports are typically regarded as a fundamental tool tax agents and individual taxpayers can use to confirm amounts of assessable income returned and to identify any omitted income but are not presently regarded as a fully reliable substitute for the verification of an individual's tax data.

3. We believe that this limitation should be borne in mind given the proposed extension of data matching and its use in pre-filling reports which will involve substantially greater amounts of data. In our view it may take some years to gradually realise the benefits of such measures as we believe that the proposed incremental improvements to such data collation processes can only be practically phased in over time. As a corollary it is also essential that any on-line income tax return with pre-populated information be developed so that any incorrect information can be over-ridden and amended with the correct data where appropriate

4. The proposed 1 July 2014 commencement date of the new regime is not achievable as we believe that the systems of many of the reporting entities identified in the Discussion Paper will need significant modification before they can report the required information specified under Chapter 2 of the Discussion Paper. It would also be onerous for such an obligation to be imposed on such third party providers who would need to implement costly systems changes before the finalised data-matching requirements are set out in enacted legislation. Accordingly, we believe that the commencement date of the amendments be deferred until 1 July 2015 so that affected parties can systematically determine the most cost effective way in which to provide the data required under amending legislation. Alternatively, consideration should be given to the introduction of some transitional relief from penalties imposed for non-disclosure under Divisions 284 and 286 of Schedule 1 of the Taxation Administration Act (1953) during the initial two year start-up of the extended reporting regime especially as some of the specifications listed are not readily achievable from the proposed start date

5. As part of the introduction of these measures it would be useful if the proposed amendments or accompanying explanatory memorandum confirm that costs incurred in effecting systems changes or the development of new systems will be tax deductible in the year in which such costs were incurred. In our view such costs should be regarded as allowable under the general deductibility provisions of section 8-1 of the Income Tax Assessment Act (1997) (the ITAA (1997)), or alternatively under section 25-5(1)(b) of the ITAA (1997) as expenditure incurred in complying with an obligation which relates to the tax affairs of other entities being those individual taxpayers who will be subject to data-matching. Such clarification would be desirable as entities incurring significant costs in complying with the finalised reporting requirements may be further disadvantaged if mandated changes borne by them are only deductible over time under the capital allowance provisions under Division 40 of the ITAA (1997); and

6. The proposal that information collated by third parties be provided in real time as canvassed in the Discussion Paper should be formally regarded as a long term aspirational goal which will only be realised gradually over time. This is congruent with the development of current data matching processes and the compilation of pre-filling reports which have been annually fine-tuned and improved since their inception in 2007. However, the on-going practical difficulties in collating data by existing third party information suppliers illustrates the difficulties in providing information on a timely basis let alone in a real-time environment. Accordingly, whilst we support this initiative as a long-term desirable goal we caution against the expectation that it can be practically realised in the short to medium term.

Specific comments

We also make the following specific comments in respect of the proposed reporting obligations to be respectively imposed in relation to the sale of real property, the sale of shares and units, sales through merchant credit and debit services and the provision of Government grants and payments:

1. Sale of real property

Sub-chapter 2.1 of the Discussion Paper appears to envisage that the additional compliance burden on supplying information on sales of real property will be principally borne by State or Territory revenue authorities. In practice, we believe that much of the data specified under sub-chapter 2.1 will be potentially available to such government agencies. However, their systems would need to be modified to ensure the collection of the unique identifier(s) of an individual who is not carrying on a business who is engaged in such a transaction. Furthermore, the provision and use of that person's date of birth or tax file number must comply with recently amended privacy laws.

We also believe that it is important to recognise that such agencies will not be able to provide all of the detail listed in sub-chapter 2.1 and that the obligation to provide such data is not unduly imposed on individual taxpayers who already typically bear a significant compliance burden.

For example, it may often only be possible for the individual parties to the sale transaction to clarify whether a real property disposal involved the sale of new residential premises, used residential premises, commercial premises or vacant land.

Likewise, it will only be the individual vendor who could potentially provide details of incidental costs on acquisition and disposal (other than stamp duty), capital improvements and third element costs on eligible CGT assets.

We also note that the Discussion Paper does not comprehend that the cost of an asset for capital gains tax purposes may in fact be its deemed market value which could arise on, say, the disposal of an inherited property which was acquired from the deceased prior to the commencement of the CGT regime which will have a cost base equal to the property's market value as at the date of death of the deceased.

Whilst the vendor or purchaser may be able to supplement the information provided by government agencies we are concerned that the imposition of an obligation to collate such data on a timely basis as envisaged in the Discussion Paper is counter-intuitive to the Federal Government's commitment to cutting red tape and excessive compliance.

Thus, we contend that the compliance burden be principally imposed on the above government agencies and that there be a recognition that the volume of data required to be collected under sub-chapter 2.1 cannot be readily achieved especially in the short to medium term;

2. Sale of shares and units

We recognise that a significant amount of the incremental data relating to the sale of shares or units in publicly listed entities can be potentially provided by share registries or clearing house providers.

However, we again emphasise that there are a range of complications which would have to be addressed by such 'market participants' such as, amongst others, recognising complexities arising from the impact of mergers, demergers, liquidations and employee share schemes on the identification of relevant data. Similar issues will arise in tracking the value of share options and rights and the impact of bonus issues.

The commentary in the Discussion Paper also fails to recognise that the 'cost' of units in listed unit trusts may be reduced or eliminated by the distributions of certain non-assessable amounts which may reduce the cost base of units for CGT purposes under section 104-70 of the ITAA (1997).

Moreover, it is unclear how share registries will be able to provide details of share or unit disposals in unlisted private companies.

Once again we have concerns that by default such a reporting obligation will be imposed on individual vendors of investments in such unlisted entities which is contrary to cutting unnecessary regulation imposed on individuals

3. Sales through merchant credit and debit cards

As opposed to some of the other proposals we understand that the data specified in sub-chapter 2.3 is largely already available to financial institutions and other credit providers, and that the implementation of this change may be more readily achievable than those associated with the sale of real property or listed investments.

As CPA Australia strongly supports measures to contain the cash economy we strongly support this initiative as one of the measures the ATO could employ in identifying unreported income; and

4. Government grants and payments

We believe it appropriate that an obligation be imposed on all federal, state, territory and local government agencies to disclose details of any government grants or payments made to individuals which are not currently provided for other regulatory reasons. However, we again stress that this obligation not be imposed on the individual recipients of these amounts as the provision of such data by these agencies should prima facie be sufficient to satisfy the reporting obligations set out in sub-chapter 2.4.

If you have any questions regarding the above, please contact Mark Morris, Senior Tax Counsel, on (03) 9606 9860 or via email at mark.morris@cpaaustralia.com.au.

Yours faithfully

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