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General Manager
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The Treasury
Langton Crescent
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Dear Sir

TAX COMPLIANCE – IMPROVING THIRD PARTY REPORTING

This submission is based on my 39 years' experience as a tax agent. I am not a provider of any of the information that these reforms seek to obtain, but I am a user of the information.

I chair the Tax Discussion Group for the Institute of Public Accounts in Hobart, I was President of Taxpayers Association of Tasmania for over 25 years, I was a member of the ATO Regional Tax Practitioners Working Group for 15 years, I regularly present seminars to other tax agents on tax matters, including CGT and Real Estate, the Small Business CGT Exemptions, and an annual session called Tricks & Traps on the 20xx Tax Returns. I convene the Elite Tax Users Group in Hobart. I have also handled talkback radio sessions on taxation issues since 1989.

Within the last few years the ATO has made available the Pre Fill Report for tax agents and self-preparers to assist in lodging personal tax returns. My fellow tax agents and I find the Pre Fill Report of great assistance in preparing a return.

I have tried to respond in the order I found things in the discussion paper.

Page 2 You mention that interest and dividend income detail is available via the pre fill report. For the 2013 tax return season I make the following comments.

At least two interest paying bodies were very late supplying the ATO with the details. MyState Financial, with over 100,000 customers in Tasmania, did not lodge until 22 October, Macquarie Bank/Group did not lodge until December. ANZ has not yet sent details, as far as I can detect, for its V2 accounts. MyState's tardiness meant that about half of all taxpayers in Tasmania could not rely on the Pre Fill Report, nor will the ATO be able to generate a return for the client to merely sign and send back.

Tardiness like this makes it pointless for the ATO to try to prepare a return for people "with simple tax affairs". Simply the data is not available in a timely way.

For dividends, there is a similar story. There are three principal share registry firms, Computershare, Link and Board Room. For 2013 Computershare used the same ASX identifier for both ANZ fully paid ordinary shares and ANZ Convertible Preference Shares. The correct ASX identifiers are ANZ and ANZPA respectively. This resulted in the ATO consolidating the data and thus providing rubbish to users of the Pre Fill Report. What a self-preparer did I have no idea!

My perception is that the Share Registries provide the data to the ATO reluctantly and with as little care as they can get away with, but that might be a jaundiced view...

There is a serious problem in the way that share registries collect the TFN data when shares are initially acquired.

After acquiring shares, the shareholder receives a request to provide a TFN, banking details, an offer to receive everything by email and in some cases an offer of a Dividend Reinvestment Plan (DRP). The TFN form has not been revised since the TFN Withholding Tax Regime started, I think over 20 years ago.

At that time Centrelink payees did not require its payees to have a TFN, so there was an option for these to use a dummy TFN. The 2014 instructions for providing a TFN for a shareholding start with

If you are an age, invalid or DVA pensioner use 444 444 441

If Carer, Sole Parent Widow or other pension or Rehabilitation allowance, use 444 444 442

If non profit organisation use 555 555 555

A client, of age pension age and very well educated, followed the instructions, as the first option she was given was to quote 444 444 441. No details of dividends appear in her Pre Fill Report

The form needs to be redesigned so that the most useful option to the ATO (and me) is at the top. I suggest something like the following:

What is the entity holding the shares? Individual Joint Partnership Company SMSF Not for Profit

Is this entity a Resident of Australia, for Income Tax purposes?

If a joint holding, give the full name and the TFN for each holder

For all other entities, give the TFN or ABN of the entity.

You will find the TFN on the last Notice of Tax Assessment, the Payment summary issued by Centrelink, DVA or your employer and most correspondence from the ATO.

If you do not have a TFN, contact the share registry for further instructions.

I would further suggest that the share registries be instructed to search their databases for all shareholdings using a dummy TFN and to enclose with the next dividend statement or other mailing a request for these shareholders to provide a valid TFN. This will incur a minor cost to any adequately computerised organisation. A clean-up of the presently defective database is well overdue.

It would also simplify matters if a CHESS sponsor were allowed to send the TFN and other details to the new CHESS sponsor. I recently transferred all the shares held by my SMSF from one CHESS sponsor to another. I had to complete 32 new TFN forms, 32 Banking forms and then correct the details where the data entry staff did not get it right. The share registry remained the same, but seems to treat a change of CHESS sponsor as a sale and purchase.

That of course will give a lot of false data each year. A non sponsored shareholder who decides to sell via Comsec or ETrade may be shown as having made two sales. The first is the transfer to the CHESS sponsor, the second is the actual sale.

I also suggest that every payment advice include a statement as to how the payer will report it.

For instance, this will be reported as interest, and you should declare it at Item 9.

For instance, this will be reported as a dividend, and you should declare it at Item 10.

For instance, this will be reported as a trust distribution, and you should declare it at Item 13.

Similar assets such as CBA PERLS III, IV and V all look the same, but are reported in different parts of the return.

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2.1 REAL PROPERTY

I do not see a problem with any of this. All Land Titles Offices are now computerised; adding one new field called TFN should not cause the software writers any problem. I am not sure that an LTO collects the settlement date at present; it does get the consideration, but not any other costs and charges. The series of dot points on p 5 omits the TFN – much more useful if that were collected.

I think TFN should be collected by the conveyancer or solicitor, not by the real estate sales person.

The comments about the actual request above apply here.

There is no reason why this could not be reported to the ATO quarterly, and perhaps monthly in April, May and June. That way the Pre Fill Report downloaded in early July might be almost accurate.

The LTO in Tasmania, and several other states, will not register an SMSF as the owner of land. In Tasmania it shows either the names of the trustees, or the name of the special purpose company.

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2.2 SHARES & UNITS

We are already receiving some details of share sales in the Pre Fill Report. I think it is limited to the name of the company, the date and the quantity. No dollar values are given. I do not understand the need for TFN withholding Tax Code – the third dot point on p 7. The share registry may not know the effective date of acquisition of many shares, especially where the taxpayer has changed CHESS sponsor, or changed to having a CHESS sponsor. The share registry would not normally know the brokerage and other incidental costs.

Capital returns will also be flawed data where a shareholder has changed CHESS sponsor.

Stock brokers, where also acting as financial planner, collect the TFN from the client, but are not permitted to send it to the share registry. They can send banking details. They plead that the Privacy Act stops them doing this. Consequential amendments are needed so this detail can be easily provided and transferred.

There would be a one-off cost to amend software and this cost ought to be subsidised by the ATO.

There is no reason why this could not be reported to the ATO quarterly, and perhaps monthly in April, May and June. That way the Pre Fill Report downloaded in early July might be almost accurate.

Equally, all dividends and distributions should be reported within 30 days of the payment date. This would allow time for deaths, returned mail and similar events to be processed by the share registry.

I have noted a problem when a client dies. In most cases the Pre Fill Report gives the total dividend for the tax year, even though the share registry has been notified of the date of death. They do not seem to understand that there is a new legal entity immediately after the death of the individual shareholder, or of one member of a jointly owned parcel.

A self-preparer could easily incorrectly apportion a full year's dividend if relying on the present Pre Fill report.

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2.3 SALES THROUGH MERCHANT FACILITIES

This seems, prima facie, to be of no use to a tax agent preparing a tax return, and of little use to a small business owner. It may be of some use to the ATO audit staff.

Implementation should not present a problem, as the ABN is captured when the merchant facility is set up.

Reporting to the ATO should not present a problem.

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2.4 GOVERNMENT GRANTS AND PAYMENTS

This area deals with very little money, but will be the most difficult to collect. My perception is that grants by State Governments have very old fashioned systems for paying grants and that the follow up of how it was spent is random. Some are paid through accounts payable and serious work would be needed to collate the detail and then report to the ATO. As Secretary of a Not for Profit that receives grants from 2 or 3 separate parts of the Tasmanian Government, I

was surprised when the State Auditor-General asked us to acquit the last 5 years of grants. That would suggest the money is paid without complete control.

We also receive money from a University and I am sure that other universities would be making grants.

I do not know how you can tackle that in the timeframe allowed – by 1 July 2014.

The providers are multiple, and would have computer systems which will use different operating systems. Some parts of Tasmania still run on COBOL programming, circa 1968.

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3 PRELIMINARY LAW DESIGN PRINCIPLES

Having all third party reporting obligations in a single act would make life a little simpler, but is of little relevance to a tax agent.

CLOSING REMARKS

None of this will make any difference unless the ATO enforces the new rules. I have over the years reported instances where a document has not been provided on time, usually a Group Certificate, for 25 years, or Payment Summary, for the last 13 years, for a client on wages. Many years ago the ATO would take action to ensure the issue of the document. Lately the response has been “We have adopted a risk management strategy.” Once I report a failure there is no risk to manage, there is an actual breach of the rules which needs to be dealt with. And the ATO does not take that action.

Equally, I have often lodged a return with a statutory declaration in place of a real Payment Summary or Group Certificate. Never in 39 years has the ATO ever changed the numbers in the statutory declaration, so I can only assume that there has been no action by the ATO to chase the employer who failed to comply with the law.

Last year’s debacle, Taxable Payments Annual Report, seems to have achieved absolutely nothing. There has been no meaningful data on any Pre Fill Report during tax time, ie up till 31 October.

A number of my clients were seriously inconvenienced by having to manually produce this report, and are most annoyed that it does not appear to have been used.

I do not require this submission to be treated in confidence.

I would be pleased to discuss practical ways for the ATO be more effective, provided that there is some chance that the ATO would be required to lift its game as a result of those discussions.

Yours faithfully

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