



17 August 2018

Mirren Allica  
Black Economy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [Blackeconomy@treasury.gov.au](mailto:Blackeconomy@treasury.gov.au)

Dear Mirren

### 2018-19 Budget Black Economy Measure – Further expansion of the taxable payment reporting system

The CTA welcomes the opportunity to provide comments in relation to the Budget Black Economy measure to further expand the taxable payment reporting system to road freight, IT and security, investigation or surveillance services.

Our comments deal with a practical issue impacting many large Australian groups where services such as IT are provided by one entity to other entities within the same economic group.

The Explanatory Material (EM) accompanying the draft Bill states at paragraph 1.1:

**1.1 Schedule # to this Bill makes amendments to require entities that provide ‘road freight’, ‘IT’ or ‘security, investigation or surveillance’ services to report to the ATO details of transactions that involve engaging other entities to undertake those services on their behalf.**

Paragraph 1.1 indicates the intent of the rules are to report payments made by entities in the IT industry (as an example) to other entities who undertake IT services on their behalf. It does not appear to require the reporting of payments made by an entity not in the IT business to the principal contractor who is in the IT industry. This legislative intent is reflected in the draft Bill which only requires reporting by an entity that “makes a supply of an information technology service” (Schedule 1, item 1, table item 14 of section 396-55 to Schedule 1 to the *Taxation Administration Act 1953*).

For example, Widget Co may contract with IT Co to provide IT services to it. This payment is not subject to the rules. If IT Co however contracts with IT Contractor Co to provide the IT services on its behalf to Widget Co, IT Co must report payments it makes to IT Contractor Co.

Paragraph 1.17 of the EM states:

1.17 Entities are not required to report in relation to transactions if they and the entities providing ‘road freight’, ‘IT’ or ‘security, investigation or surveillance’ services are members of the same consolidated group or Multiple Entry Consolidated group. Entities are also not required to report any payments to which Division 12 of Schedule 1 to the TAA 1953 (PAYG withholding payments) applies as those payments are subject to their own withholding and reporting regime. *[Schedule #, item 1, table items 12, 13 and 14 of section 396-55 to Schedule 1 to the TAA 1953]*

This would appear to not require an entity in the IT industry to report payments to other entities in the IT industry if they are part of the same consolidated or MEC group. Thus, if IT Co and IT Contractor Co are in the same group, these payments are not reportable.

The Accompanying Bill however, states at item 14

---

14	an entity that makes a *supply of an information technology service and has an *ABN	the provision of consideration (within the meaning of the *GST Act) by the entity to another entity wholly or partly for the *supply by the other entity of an information technology service, unless: (a) the entities are *members of the same *consolidated group or *MEC group; or (b) Division 12 requires that an amount be withheld from the payment of the consideration
----	---	--

Reading item 14, it would appear to ensure payments within consolidated groups are not to be reported but would appear to require certain payments made by a member of the consolidated group to a third-party IT company to be reported.

Many consolidated groups in Australia have subsidiaries that supply IT (and other) services to other members of the consolidated group. Such subsidiaries may contract with third party suppliers for IT services. Thus, taking our example, if Widget Co is part of a consolidated group which also includes an IT company, Widget IT Co which supplies IT services to the rest of the consolidate or MEC group, a payment by Widget Co to Widget IT Co for IT services would not reportable. However, it appears that a payment by Widget IT Co to a third-party supplier outside the consolidated group would be reportable. In effect, purely because the consolidated group has a separate IT service company that provides services to other members of the consolidated group, the Bill would appear capture third party payments to a principal IT provider.

This seems to go beyond the intent of the rules (which are dealing with payments within the IT industry), adding additional compliance costs, purely due to a consolidated group's structure.

### Recommendation

Item 14 could be amended (see highlighted text) such as:

---

14	an entity that makes a *supply of an information technology service to an entity that is not a member of the same consolidated group or MEC group and has an *ABN	the provision of consideration (within the meaning of the *GST Act) by the entity to another entity wholly or partly for the *supply by the other entity of an information technology service, unless: (a) the entities are *members of the same *consolidated group or *MEC group; or (b) Division 12 requires that an amount be withheld from the payment of the consideration
----	---	--

This would mean that in our example, Widget IT Co is not an entity supplying information services to other entities as the supply of information technology services is to members of the same consolidated or MEC group. Thus, Widget IT Co's payments to a third-party IT service provider would not be reportable, whilst payments by the third-party IT service provider to other IT service providers remain reportable.

Should you wish to discuss any aspect of this submission in further detail, please do not hesitate to contact me.

Regards



Paul Suppree  
Assistant Director