KPMG submission

Exposure Draft

Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Bill 2018

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Executive Summary

KPMG supports the Federal Government's action against the black economy – it is a significant cost to society, and government revenue and services, and a haven for some of the most egregious criminals.

Broadly, we are supportive of the expansion of the Taxable Payments Reporting System (TPRS), and we would like to provide comments about the current proposal to help achieve this. Specifically:

- **The TPRS obligation will have maximum effect where businesses understand in advance whether or not they are covered by it:** We recommend that without limiting the intended ordinary meaning of 'road freight', 'IT', and 'security, investigation or surveillance', the final Explanatory Memorandum should include additional examples of businesses that are intended to be covered by the rules. If this is not possible, then the Australian Taxation Office should be encouraged to issue further guidance on its interpretation.
- **The 'de minimis' rule should include a dollar volume test in addition to the proportion of turnover test:** Consideration should be given to extending TPRS requirements to taxpayers that derive a significant dollar volume of GST turnover from the specified TPRS services, even where this is less than 10% of their total GST turnover. The dollar threshold should be sufficiently high so as not to present an undue burden for smaller businesses.
- **A more frequent reporting requirement in future:** We recommend that following the implementation phase of these measures, the Commonwealth Government should make an assessment of their effectiveness in combatting black economy behaviour. Subject to that assessment, consideration could be given to moving from the annual reporting required in the current raft of proposals to quarterly reporting, which may be more suited to a 'crack down' effect on black economy activity.

Detailed comments

1. General

1.1 KPMG welcomes the opportunity to comment on the Exposure Draft (ED) of *Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Bill 2018* and associated Explanatory Memorandum as published by Treasury on 23 July 2018.

1.2 KPMG believes that implementing measures to curtail the black economy is rightfully a high priority for the Federal Government. Accordingly, we broadly support the intention of this reform – to ensure that entities operating in industries that are perceived as higher risk are required to report payments made to other entities to provide those services on their behalf.

1.2 KPMG acknowledges that the TPRS regime is already up and running with respect to certain industries that are perceived as higher risk, and therefore the current consultation is centred on extending, rather than designing the TPRS regime.

2. Maximising the impact of the extension of the TPRS

2.1 The Explanatory Memorandum should provide additional guidance, in the form of practical examples, on the types of business intended to be covered by the definitions of ‘road freight’, ‘IT’, and ‘security, investigation or surveillance’ services (in particular for the latter two concepts). If this is not possible, then the Australian Taxation Office (“ATO”) should be encouraged to develop practical guidelines for business in advance of these provisions taking effect. There should also be a publicity campaign to make sure that relevant businesses are aware of the TPRS.

2.2 The expansion of the TPRS will be most effective in combatting black economy behaviour if the reporting entities have clarity in advance that they are subject to the TPRS. The timeliness of the reporting is critical in terms of the ATO being able to most effectively target black economy subcontractors. Receiving delayed reports because a business did not believe its operations came within the definition of “IT services” would undermine the objectives of the Bill.

3. De minimis thresholds to determine when a business will fall within a TPRS obligation

3.1 The consultation materials accompanying the ED set out the policy that where an entity provides a range of goods or services, including an amount of 'courier or road freight', 'IT', or 'security, investigation or surveillance' services, the TPRS obligation should only apply if one of the specified service categories accounts for at least 10% of the entity's GST turnover.

3.2 As a result of this percentage-based de minimis threshold, the proposals may exclude very large businesses from the TPRS whose specified services are a small percentage of their total operations. However, such businesses may still be paying amounts to subcontractors which would be sufficiently large to warrant reporting under the TPRS.

3.3 Accordingly, consideration should be given to a dual-threshold approach where entities that derive a very large aggregate dollar amount of GST turnover from the services specified in the ED are also required to undertake TPRS reporting, even if this is less than 10% of the entity's overall GST turnover. We recommend that the dollar threshold considered should be significant enough to not create an unduly high compliance burden for smaller taxpayers.

4. Consider a move to more regular reporting requirements after the effectiveness of the measures has been assessed

4.1 Under the amendments proposed in the ED, entities will be required to report information in the approved form to the ATO either annually, or at other times as determined by the Commissioner of Taxation by legislative instrument.

4.2 Once the TPRS has been extended to the industries named in the ED, and the annual reporting cycle has been assessed for effectiveness, there should be consideration of whether the objectives of TPRS would be better served if the reporting requirement was made more frequent, such as on a quarterly basis. This might facilitate 'cracking down' more swiftly on black economy participants, who may be using aggressive avoidance strategies such as regular recycling of ABNs.