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Dear Mirren

Exposure Draft: Further expansion of the taxable payment reporting system

PwC welcomes the opportunity to make this submission in relation to exposure draft law which gives effect to the 2018-19 Federal Budget announcement to further expand the taxable payment reporting system (TPRS) to the 'road freight', 'information technology', and 'security, investigation or surveillance' industries.

At the outset, we support the introduction of measures, such as that proposed by this exposure draft law, that target the growing problem of the black economy and which aim to maintain the integrity of Australia's tax base. We also acknowledge that this measure is just one of many reforms proposed to address potential tax leakage.

Specifically, we support the expansion of the TPRS to improve tax compliance in identified "high risk" industries, but which at the same time does not impose a significant increased compliance burden on business. We observe the comment made by the Government in its response to the Black Economy Taskforce Final Report that further high risk parts of the economy (such as the "gig economy") will be considered over time to form part of the TPRS. In that respect, we would recommend that the experiences and outcomes that emerge from the currently proposed expanded TPRS should be monitored to assess the cost-benefits.

Our key concern with the proposed draft law is the potential implications of a lack of legislative definitions to identify what is a 'road freight', 'information technology', or 'security, investigation or surveillance' service. This may create uncertainty and potential risks in identifying whether a particular service would be captured by the measure.

We note that the exposure draft explanatory materials indicate that these terms are intended to take their ordinary meaning and provides some useful examples and comments. However, we consider that this approach has the potential to create uncertainty over the ambit of the measure, particularly in the case of an "information technology service" which in the current digital economy could be an emerging concept. For example, it would not be unreasonable to assume that the supply of a data processing or web hosting service is the supply of an information technology service that would fall within proposed Item 14 as a reportable transaction. However, in the recently issued draft guidance issued by the Australian Taxation Office (ATO) on the expansion of the TRPS, such services are stated to be excluded from the scope of a supply of an information technology service. This example highlights the potential for ambiguity. As a minimum, we suggest that consideration should be given to using the term "information technology *consulting* service" which may be more effective in clarifying the scope of the

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services that are to be reported under proposed Item 14.

We appreciate the difficulty in precisely defining the ambit of the proposed additional reportable activities, and suggest that the inclusion in the law of some examples by way of note would be useful to remove potential ambiguity (see for example, the manner in which examples are provided in Regulation 33 of the *Taxation Administration Regulations 2017* which deals with foreign resident withholding applicable to “construction and related activities”).

Having greater legislative certainty would be beneficial, particularly given the potential for penalties for failing to report as and when required could be significant, particularly for a significant global entity.

We support the existing legislative basis (section 396-70 of Schedule 1 of the *Taxation Administration Act 1953*) to allow the Commissioner of Taxation to exempt certain entities from their reporting obligations. The proposed legislative instrument that will provide a reporting exemption where payments received for the relevant supply is less than 10% of the entity’s relevant GST turnover should be sufficient to remove an unwarranted compliance burden, particularly having regard to the requirement under proposed Items 12, 13 and 14 to report the consideration that is made “wholly or partly” for the supply of the applicable reportable service.

Given the potential reach of the new measures, we strongly recommend that there is an adequate awareness and education campaign in the lead up to the start date of the new law so that all potentially affected business are aware of the new requirements and can factor in the new obligations into their business systems in readiness.

We welcome the opportunity to discuss our submission with you. If you have any questions please contact Lynda Brumm on (07) 3257 5471.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Pete', written in a cursive style.

Pete Calleja
Australian Tax Leader
PwC Australia