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Director
Black Economy Division
The Treasury
Langton Crescent
Parkes, ACT, 2601
Via Email: blackedeconomy@treasury.gov.au

This submission is provided as a public submission.

Submission by the Motor Trades Association of Australia Limited (MTAA) into the introduction of an economy wide cash payment limit

Dear Director of the Black Economy Division

MTAA appreciates the opportunity to contribute to investigations into developing policy governing an economy wide cash payment limit of \$10,000 that was recommended in the *Black Economy Taskforce Final Report* and agreed to by Government in the 2018/19 Federal Budget.

MTAA provides the following endorsed policy position on the proposed economy wide cash payment limit and to outline how the policy may impact Australian automotive businesses.

MTAA supports Governments attempts to crack down on black economy participants who use cash payments to avoid their tax obligations and unfairly gain a competitive advantage over legitimate and law abiding automotive businesses.

MTAA's position incorporates the majority views of its state and territory affiliated member associations and its affiliated national industry sector associations. This submission should be considered alongside any of those that may have been submitted by any of the Association's Members.

MTAA on behalf of its State and Territory Association Members remain available to assist with any additional line of inquiry or to access any industry participants who may assist the Treasury with understanding the implications on automotive businesses of introducing an economy wide cash payment limit of \$10,000. Please do not hesitate to contact MTAA should you require any additional clarity or further information regarding this submission or more generally.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Richard Dudley".

Richard Dudley
Chief Executive Officer
Motor Trades Association of Australia Limited



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MTAA Limited's

Submission to the Treasury into the
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Executive summary of recommendations

MTAA recommends:

- Treasury considers the unique characteristics of the Australian Automotive industry and the implications on automotive businesses of an introduced economy wide cash payment limit of \$10,000.
- Any introduced policy that limits cash payments does not increase red tape and costs for automotive businesses.
- Measures be introduced that stabilize or reduce the cost of transactions for businesses so that business costs are not increased as a result of introduced policy that limits cash payments.
- The introduction of incentives through tax rebates to small businesses to adopt entirely non-cash business models, and develop policies (i.e. by applying behavioral economics) that provide a disincentive for businesses and individuals from operating in the black economy.
- Further streamlining of public registers including Companies Register, Australian Business Register (ABR) and Australian Business Names Register and improved integration of ATO and ASIC accountabilities and gives consideration to inclusion of business identification (ABN) as part of electronic payment methods.
- Strengthened enforcement capability and capacity, particularly in regard to online merchants of automotive products and 'backyard' operators of dismantling recycling and other automotive businesses suspected of avoiding tax obligations and other compliance requirements.
- Development and implementation, in partnership with peak industry organisations. Of sector and industry specific awareness and education strategies aimed at consumers and businesses highlighting risks associated with participating in the black economy in those sectors and industry.
- Further investigation of improved, integrated, reporting requirements provided such requirements are integrated with other compliance structures and do not place an increased burden (including time and costs) on automotive business operators.
- Consideration of creating a standing interagency 'Black Economy Taskforce' to identify, respond to and prosecute serious, complex black economy fraud. A component of such a taskforce would be sector / industry specific partnerships with peak industry and advocacy bodies to jointly identify and address black economy behaviours and attitudes. For example, the development of express reporting links between government and industry (including MTAA and MTAA member associations) so that illegal operators within the automotive industry can be targeted by regulators. Systems could include sector / industry specific hotlines.

- Government consider the introduction of automotive market supply chain integrity measures to ensure that businesses are required to deal only with certified / licensed businesses within the supply chain. For example, only licensed businesses can purchase, dismantle and recycle registered and deregistered vehicles as part of an End-Of-Vehicle life decommissioning and recycling policy and regulation.
- Consideration of further integration and interface of state based automotive vehicle registration and licensing systems, registers and databases; to improve monitoring, traceability and identification of suspect traders and improve consumer protection and safety outcomes.
- Further exploration of expanding the Taxable Payments Reporting System (TPRS) to sectors of the automotive industry that have multiple operators using the black economy. This means that transactions have to be reported to Government. However, legitimate businesses should not be penalized for increased reporting requirements and consequently streamlining of reporting requirements is required.
- Consideration of amnesty and / or protection for businesses who unwittingly or unknowingly may be undertaking some activity in the black economy and provide support for transitioning to compliant business activity.
- Increased, targeted and industry specific tax literacy education and programs designed to assist small business improve understanding and compliance with tax and other regulatory requirements.
- MTAA recommends that the \$10,000 threshold should be regularly reviewed along with the effectiveness of any introduced policy and regulations for an economy wide cash payment limit.

Support for an economy wide cash payment limit

- MTAA supports Government's efforts to crack down on businesses (including those working in the automotive industry) operating in the black economy that use cash payments to avoid tax obligations and regulatory compliance requirements and unfairly gain a competitive advantage over legitimate and law abiding businesses.
- MTAA supports efforts by the Treasury to consider the specific characteristics of the automotive industry and the impact a cash payment limit of \$10,000 will have on automotive businesses.
- MTAA does not support introduced policy that increases red tape and compliance costs for automotive businesses.

Questions

Question 1: Should the limit apply to the price of the payment for the goods or services?

- MTAA supports the imposed cash transaction limit of \$10,000 for payment of automotive goods and services. MTAA perceives that payment price is clearer and more defined than other benchmarks such as advertised price, discounted price, whole sale price, etc.

Question 2: What are the barriers to implementing a cash payment limit on 1 July 2019?

- Although MTAA members agree with the imposed cash limit of \$10,000, MTAA believes that individual areas and businesses may need exemption of and increased transition periods due to the following considerations:
 - Automotive repair and restoration work is often long term and many jobs have already been partly paid for using cash. Consequently, introduced reporting and accounting practices may not accurately reflect the cost of work completed or yet to be completed.
 - Some automotive businesses that operate in country and remote centers may not have the ability to access continuous and reliable electronic payment systems, nor may their customers.

- The period proposed may not give some automotive businesses enough time to transfer to or introduce new electronic payment systems; particularly if internet access is limited.
- The short time period does not give some automotive businesses enough time to plan, prepare and fund a transfer to electronic payment systems.

Question 3: Are there any particular industries or transaction types that legitimately operate in large cash transactions and are unable to be made through the electronic payment system?

- It is noted above that automotive businesses in remote and country areas may not have consistent and reliable access to internet based electronic payment systems or services.
- MTAA is concerned that many providers and users of internet markets and online 'stores' through individual sites or aggregators are selling automotive products and services that may not possess any or appropriate reporting or compliance requirements. MTAA notes some of these businesses may be unlicensed and may not comply with regulatory and licensing requirements, but yet are able to effectively engage in electronic financial transfers. This brings into question the effectiveness of the current regulatory regime and whether imposed cash limit of \$10,000 will decrease activity in the black economy in the online environment.
- MTAA is concerned that appropriate investigation, enforcement and regulatory action is not being directed to businesses operating illegally nor will they be incorporated into compliance activities of any introduced policy and regulatory regime. MTAA considers that the \$10,000 threshold should be under regular periodic review as should the effectiveness of any introduced policy for an economy wide cash payment limit.

Question 4: Are there specific types of business to business transactions that the \$10,000 cash limit shouldn't apply to?

- MTAA supports the uniform application of the \$10,000 cash payment limit for all business to business transactions across the entire economy including the automotive industry.

Question 5: Do affected entities anticipate any increases in transaction costs (both cash and electronic banking) resulting from the cash limit?

- MTAA suggests increased surveillance and monitoring of fees and charges will be critical in ensuring the objective of the cash payment limit is not inadvertently undermined by the costs associated with transactions.
- Many automotive businesses (i.e. automotive repair and engine re-conditioning businesses and motor vehicle dealers that retail passenger cars, trucks, motorcycles, farm and industrial equipment) are required to make monetary transactions above \$10,000. It is known such businesses can and do make legitimate transactions in cash.
- Although MTAA agrees in principle to limiting cash transactions to \$10,000, MTAA advocates that automotive businesses should not be unfairly disadvantaged by Government policy and regulatory frameworks that increases their costs by requiring them to use the services of financial institutions. For this reason, MTAA urges Government to introduce requirements for financial institutions to not gouge business with increased fees and charges for meeting compliance.
- MTAA recommends that monitoring of financial institutions to ensure any fees and charges are fair reasonable and reflective of costs, rather than penalizing businesses through increased transaction costs, simply because they can. MTAA urges Government to consider the implications of the proposed policy on the fees and charges structures deployed by banks and financial institutions.

Question 6: Is the holding of an ABN an appropriate test for determining which entities are subject to the cash limit?

- MTAA is concerned that the holding of an ABN alone is not sufficient for determining which entities are subject to a cash limit. For example, MTAA is concerned that having an ABN is not always an accurate reflection of whether the ABN holder is actually conducting business. Issuing requirements for an ABN are minimal. For example the Australian Business Count in in some automotive industries reflects potentially thousands of participant businesses. However, MTAA Members own 'grass roots' knowledge and member business counts of actual 'active' businesses are considerably less than the business count data (which largely relies on ABN and other register counts). An example of this is in motor body repair where the number of businesses actually purportedly engaged (as identified through ABN) in mot bod repair is vastly different from the reality of actual businesses employing more than one person.

- MTAA suggests there is an opportunity for government to further investigate and integrate existing registers and potentially examine ABN provision and classification.
- MTAA advocates for more collaboration between Government Departments including the Australian Tax office (ATO), the Australian Securities and Investment Commission (ASIC), Border Force, the Australia Federal Police (AFP), AUSTRAC and others. MTAA respectfully suggests that coordinated plans of action and intelligence sharing across multiple industries and Government Departments will better identify and potentially reduce activity in the black economy than solely limiting cash payments for businesses to \$10,000.
- MTAA also advocates for national integrated automotive sector and industry specific policies which may have multiple benefits across jurisdiction and portfolios, addressing not only black economy objectives but also law enforcement and environment considerations. For example, a national integrated policy and regulation that takes in law enforcement, environmental and black economy objectives could be developed for end-of-life vehicles. Such an approach could thwart illegal activities and behaviours; reduce opportunities for black economy transactions while simultaneously stimulating legitimate business opportunity.

Question 7: Are there types of ABN holders that the limit should not apply to and why?

- As mentioned above, MTAA is concerned that ABN holders may not be conducting business in the industry stated on their ABN. This decreases the integrity of ABN being as an appropriate test for determining which entities are subject to the cash limit.

Question 8: Are there reasons why consumer to consumer transactions should be excluded from the \$10,000 cash payment cap?

- MTAA advocates a tightening of requirements on consumers as well as business. There are numerous examples where regulatory compliance requirements are not extended to individual consumer to consumer transactions and this creates difficulties and unfair trading environments for small businesses who must meet these requirements. For example: the recent Compulsory Takata Airbag Recall does not apply to individual consumer to individual consumer sale of a potentially impacted vehicle. However it does for many automotive businesses and vehicle manufacturers who may face significant penalties if found in breach of the recall provisions.

- Similarly the non-application of the Goods and Services Tax (GST) on private to private vehicle sales, irrespective of price also places a considerable disadvantage on legitimate businesses that are required to meet tax and other regulatory obligations.
- MTAA suggests that if private individual consumers are excluded from cash payment cap, then these anomalies will be enhanced and potentially undermine the objectives of the Black Economy Task Force findings and purpose of the cash limit. Exclusion could potentially increase unwanted behaviours rather than address them.

Question 9: Should there be any additional reporting requirements for businesses to report transactions above or close to the cash payment limit?

- To provide clarity for industry, MTAA advocates that Government policy provide clearly defined thresholds.
- MTAA considers that industries with known high levels of black economy activity, such as the automotive dismantling and recycling industry, be subject to increased reporting requirements for transactions above and below the \$10,000 cash limit threshold. However, any increased reporting requirements must not disadvantage legitimate businesses operating lawfully and abiding by compliance requirements.
- These businesses are already facing considerable disadvantage to the point of constraint, and even potential closure, because they comply with requirements and obligations while witnessing other market participants trade without any regard for tax and regulatory obligations. These businesses undermine the reputation and reliability of MTAA Member business constituents by flagrantly ignoring law and compliance and a lack of effective enforcement and prosecution.
- MTAA suggests that incentives including potential rebates or relief be given consideration in recognition of compliance of legitimate compliant businesses. MTAA also recommends stronger enforcement capacity and capability targeting those businesses suspected of tax and regulatory compliance avoidance including access to direct links to authorities in order to report illegal activity without fear of retribution. MTAA also suggests that enforcement agencies be better resources and have greater targeted powers to monitor, enforce and where necessary prosecute illegal business operators.

Question 10: Is it appropriate for both parties to a transaction exceeding the cash payment limit be liable for a penalty?

- MTAA argues that both parties to a transaction exceeding the cash payment limit be liable for a penalty. This requirement will assist business owners to refuse cash payment from customers and other businesses who wish to operate in the black economy or make a payment above the \$10,000 cash payment limit.

Question 11: What integrity measures are needed to support the cash payment limit?

- MTAA advocates for government to provide resources and implement processes to ensure effective enforcement of the \$10,000 cash payment limit.
- MTAA suggests creating a standing interagency 'Black Economy Taskforce' to identify, respond to and prosecute serious, complex black economy fraud. A component of such a taskforce would be sector / industry specific partnerships with peak industry and advocacy bodies to jointly identify and address black economy behaviours and attitudes. For example, the development of express reporting links between government and industry (including MTAA and MTAA member associations) so that illegal operators within the automotive industry can be targeted by regulators. Systems could include sector / industry specific hotlines.
- MTAA requests careful consideration is given to the relationship between increased regulatory requirements which increase obligations and costs for businesses who act lawfully and an unintended outcome that may result in an increase participation to operate in the back economy as a means of avoiding regulatory requirements.
- Increased integrity measures are also required to also address the rise in the use of crypto and other digital currencies that could be used as an alternate to operate in the black economy.

Question 12: What restrictions should be put in place to ensure cash transactions cannot be structured to take place over a period of time in amounts below the payment limit as a way of subverting the policy?

- MTAA understands the complexity and resources required to monitor and enforce a cash payment limit of \$10,000. MTAA also understands that Government has finite resources. Consequently, MTAA suggests that Government provide authorities with the resources and legislative power to target industry sectors with known high risk of operating in the black economy rather than attempting to monitor cash payments conducted over a period of time across all economy wide sectors. For example, authorities must be provided the legislative power to investigate unexplained wealth and to prosecute those suspected of involvement in the black economy.
- MTAA argues that increased coordination and collaboration across multiple Government departments will increase the likelihood of identifying those who are structuring cash payments over a period of time.

Question 13: Are there integrity measures that support a cash payment limit, including those in use overseas that warrant consideration in Australia?

- MTAA suggests that over time further consideration be given to lower thresholds used in other countries as compared to the \$10,000 threshold proposed for Australia.
- MTAA is concerned that the \$10,000 threshold exceeds many of the cash transactions illegally undertaken in some industries in the automotive sector and in particular the automotive dismantling and recycling sector. MTAA suggests that Government consider reducing the threshold cash limit threshold in industries or industry sectors, where there are strong suspicions of illegal black economy activity. In addition, MTAA considers that businesses operating within sectors of suspected black economy activity have increased but streamlined reporting requirements that make it easier for Government to identify unlawful activity. For example, the extension of the Taxable Payments Reporting System (TPRS).

Question 14: Are there any specific groups that should be exempt and why?

- MTAA suggests that in some regional and remote areas of Australia where internet access is limited or unreliable, that businesses in these locations, where it can be demonstrated that adoption could prove difficult or inconsistent, be given particular consideration and either exempt or extended timelines for compliance aligned to service surety.

Question 15: Are there examples of current large cash payments made by people living in remote areas or by senior Australians that cannot easily be made through electronic payment systems?

- MTAA suggest that Government undertake research to identify areas of insufficient internet connectivity or online capability and take action to increase consistent internet access in those areas before requiring businesses to comply with the proposed cash payment limit.
- MTAA suggests significant care should be exercised with specific demographics including senior Australians, and that adequate consideration be given for alternative approaches where there is low or nonexistent computer technology knowledge or use. A one size fits all approach may inadvertently exclude some sections of the community.

Question 16: Is there a need for different rules for foreign tourists? Would the administrative burden on business in administering a higher cash limit specifically for tourists, justify retaining the \$10,000 cash limit for all, including tourists?

- MTAA does not consider that tourists should be exempt from the cash payment limit particularly as the limit is at a higher rate than in other international jurisdictions.

Conclusion

- MTAA supports the introduction of an economy wide cash payment limit with consideration of the matters and issues raised in this submission.

MTAA National Secretariat
Canberra
June 2018

END OF SUBMISSION