



CHARTERED ACCOUNTANTS™
AUSTRALIA + NEW ZEALAND

12 March 2019

Black Economy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: BlackEconomy@treasury.gov.au

Dear Kathleen

A sharing economy reporting regime

Chartered Accountants Australia and New Zealand (CAANZ) welcomes the opportunity to comment upon the consultation paper in response to the Black Economy Taskforce Final Report entitled “A sharing economy reporting regime” (the consultation paper).

A sharing economy reporting regime is needed so that the tax system can reflect changes in the economy and ensure that businesses are competing on a level playing field. The existing reporting regimes do not provide the scope, regularity or certainty that is needed for reporting on sharing economy activities. Accordingly CAANZ supports the creation of a separate sharing economy reporting regime.

The separate sharing economy reporting regimes should apply to the platform operator and cover both goods and services. The reporting regime should not require the platform operator to distinguish between businesses and consumers. Ideally the sharing economy reporting regime will fit into natural accounting and reporting systems. As such platform operators should be able to digitally provide regular (as opposed to annual) reporting to both the Australian Taxation Office (ATO) and their users.

Both the final report of the black economy taskforce and the consultation paper note that substantial education of users of sharing economy platforms is required in relation to their tax obligations. The ATO has already developed a range of products to help education sharing economy participants. It would be desirable for the ATO to ‘push’ these products to identified sharing economy participants as soon as the ATO becomes aware of their activity rather than pre-filing income tax returns and presenting that information after year end which may take participants by surprise. By receiving this information early, participants will become aware of the impact of tax on cash flow and will be alerted to the need to retain documentation to claim deductions associated with the derivation of income from involvement with the sharing economy.

In designing the sharing economy reporting regimes difficulties will arise in relation to enforcement of requirements on international platforms. There may also be difficulties due to platforms changing their mode of operation to one that provides quotes between suppliers and buyers and charges suppliers for providing a quote rather than specifying prices. CAANZ does not envisage that start-ups would need an exemption from the reporting requirement given that their basic accounting packages should evolve to contain this important requirement.

Appendix A discusses the consultation paper in further detail and appendix B contains information about CAANZ.

If you wish to discuss our comments please contact Susan Franks on 0401 997 342 or via email at susan.franks@charteredaccountantsanz.com

Yours sincerely

Michael Croker
Tax Leader - Australia
Chartered Accountants Australia and New Zealand

Appendix A

This section outlines more detailed comments regarding the consultation paper.

Need for a sharing economy reporting regime

A separate sharing economy reporting regime is needed. The current tax system's reporting regimes are based on an economy that assumes that most people are employed and that any other income is mainly derived from dividends and interest. Our economy has moved on. Digitalisation now allows people to earn income from contracting their services and selling/leasing goods directly. As noted in the consultation paper, this part of the economy is rapidly growing and is involving a significant number of people¹.

The current lack of data held by the Australian Taxation Office (ATO) on transactions that occur in the sharing economy mean that it is easy for unscrupulous people to understate their income.

Understatement of income may also arise from a lack of awareness of the tax consequences of participating in the sharing economy. This understatement of income (either through unscrupulousness or ignorance) threatens the livelihood of those businesses which are doing the right thing. It also undermines the sustainability of Australia's revenue base.

Platforms located outside of Australia should be included in the sharing economy reporting regime where they involve Australian participants or goods. However it is recognised that there may be practical difficulties in enforcing such obligations. It is noted that the government is currently trying to grapple with this issue in relation to gambling websites. It may be worth exploring how this issue is being tackled with the relevant government department.

Adequacy of existing reporting regimes

Whether the existing reporting regimes available to the ATO are sufficient depends upon how the following issues are resolved:

- Is the reporting limited to business to business (B2B), or will it encompass business to consumer (B2C), consumer to business (C2B) and/or consumer to consumer (C2C)?

A sharing platform operator will not necessarily know whether a participant is operating a business. Indeed, the issues raised in the final report of the Black Economy Taskforce and the Board of Taxation's report to the government on "Tax and the sharing economy" indicate that the participant themselves may not realise that they are operating a business or entering a situation that involves the derivation of assessable income.

The Board of Tax report into the sharing economy notes that "most receipts from sharing economy activities are likely to be in the nature of assessable income, as the activity is typically principally undertaken for the purposes of generating income."² In these circumstances it would appear appropriate to capture all transactions.

¹ Paragraph 2.12 of the Board of Taxation's report into the sharing economy notes that Australia's sharing economy was worth approximately \$15 billion in February 2017 and an estimated 10.8 million Australians are set to earn extra money from sharing economy services in the next 6 months, representing approximately 60% of the nation's entire working population.

² Paragraph 3.4 of the Board of Taxation's report "tax and the sharing economy".

The taxable payments reporting system (TPRS), which is discussed in greater detail below, is limited to B2B in certain industries. The data matching programme, which is also discussed in greater detail below, has the capacity to encompass all of the above type of transactions but only in particular circumstances.

- Is the reporting to cover services, goods, goods and services?

Given that both the provision of services and the lease or sale of goods may give rise to assessable income, it is appropriate that the sharing services reporting regime cover services, goods and combinations of goods and services.

The TPRS regime only covers the provision of services. This may be due to the fact it only operates in relation to B2B transactions and it is expected that checks and balances with the GST legislation would assist in the identification of the sale of goods. The data matching programme has the flexibility to cover one or all of these categories.

- How often should reporting be required?

TPRS and the data matching programme currently have annual reporting requirements. The ATO receives information and cash from other sources such as Pay As You Go Withholding (PAYGW) on a more regular basis. Recent trends in tax administration are taking advantage of technological advancements to push tax reporting and analysis towards real time.

The black economy taskforce final report indicated that the objectives of the recommendation for a sharing economy reporting regime was to “ensure that sharing economy users are aware of their tax obligations” and to allow the ATO to receive information to enhance voluntary compliance³. These objectives are best achieved by ensuring that information is received and given in a timely manner.

By having regular reporting, the ATO may be able to ‘push’ information to taxpayers about their possible tax obligations in a timely manner. The receipt of such information could alert taxpayers to seek tax advice and/or retain documentation. By only receiving and providing this information through prefilling income tax returns after year end, taxpayers may be taken by surprise and may not have budgeted for the cash flow impact of tax or retained documentation about associated expenses which may be deductible.

- Does the reporting format need to be standardised?

Standardisation of formats and information is becoming the norm. Single touch payroll and e-invoicing are just two examples that spring to mind. The advantage of standardisation is that allows software developers and the ATO to develop systems that are compatible with each other and streamlines the processing functions and queries for all parties. CAANZ recommends that the reporting format be standardised.

TPRS has a standard format. The data matching programme does not have a standard format.

- Length of reporting obligations

³ Page 137 of the Final Report of the Black Economy Taskforce

Changing compliance rules such as reporting adds to compliance costs for both the supplier and recipient of information. Ideally the reporting requirements once fixed should remain constant.

Once an industry is in the TPRS it stays in there, though it is noted that the final report of the Black Economy Taskforce suggested that once an industry is compliant that it could be removed from the TPRS. In contrast the data protocols whilst they may be renewed, required reporting for a specified limited period.

- Data retention

Deriving income from an asset affects its tax treatment when the asset is disposed of. This could be many years after the derivation of income. As a consequence, the ATO may need to be able to retain data for lengthy periods. This seems possible in relation to TPRS but not the data protocols which currently require the data to be destroyed after one year.

The table below summarises the discussion above:

Attribute	Desired	TPRS	Data protocols
Coverage	B2B, C2C, B2C & C2B	B2B	Varies
Coverage	Goods/Services/Both	Services	Varies
Coverage	All industries	Limited industries	Specific transactions
Reporting	Regularly	Annually	Annually
Standard reporting	Yes	Yes	No
Application	Ongoing	Ongoing	Review every 3 yrs
ATO data retention	Ongoing	Ongoing	1 year

It appears that neither of the existing reporting regimes are adequate. As such a separate sharing economy regime should be considered.

TPRS

TPRS is an annual reporting requirement that applies to businesses in some industries in relation to payments for services provided by contractors. The TPRS has been gradually expanded from building and construction to include couriers, road freight, security, information technology and cleaners. This expansion is consistent with both the Inspector General of Taxation's recommendation that TPRS be expanded to all contractors⁴ and the black economy taskforce recommendation

A year after the TPRS was applied to the building and construction industry (the first industry covered by the TPRS) the ATO reviewed its operation and found that in its first year of operation that it raised an additional \$2.3billion in tax liabilities⁵. It would be useful to understand whether this improvement in compliance has been maintained.

⁴ Recommendation 3.4 in

https://cdn.tspace.gov.au/uploads/sites/16/2017/03/review_into_the_atos_employer_obligations.pdf

⁵ ATO Taxable payments reporting – effectiveness measure May 2015.

The TPRS has a number of limitations – firstly it is limited to specified industries, secondly it only requires the reporting of services, thirdly it has annual rather than period reporting requirements, and only applies to businesses. A sharing economy reporting regime would need to cover a wider range of industries than TPRS and also cover the earning of income from goods as well as services. An additional concern is the requirement of annual reporting – to be effective the reporting should fit into natural accounting systems and be as close to real time as possible. As a consequence, the TPRS is not an appropriate solution.

It is also noted that many businesses lodge paper TPRS returns. We understand that consideration is being given to the modernisation of the TPRS – this is encouraged.

Data matching programme

The ATO currently obtains information under a number of data protocols⁶ such as ride sourcing, on-line selling, motor vehicle registries, debit and credit cards, and specialised payment systems. These data protocols pertain to particular financial years rather than being an on-going obligation.

The data protocols are not only limited by time period but other criteria. For example the on line selling data protocol is limited by amounts and location of the on line selling site⁷ and is currently only applying to Ebay Australia and Ebay New Zealand. This arguably, imposes a competitive disadvantage on those entities.

Under the data protocols, information is required to be sent to the ATO after the end of the financial year. The ATO is able to retain this information for one year from receipt. It is noted that the ATO has applied to the Information Commissioner to exercise his discretion and allow the ATO to retain the information for five years⁸.

When implementing these data protocols, the ATO complies with the guidelines issued by the Office of the Australian Information Commission on [Data Matching in Australian Government Administration](#). These guidelines require that a cost/benefit analysis be undertaken of the data matching programme and alternative information gathering options, that a data protocol be reviewed every three years, that the ATO is not to create a new register, dataset or database; and that a technical standards report about how data will be protected be produced.

It is noted that in relation to the data protocol regarding online selling data that it is stated on the ATO website that “Revenue has been raised in relation to income tax and GST from taxpayer audits, voluntary disclosures and lodgments received based on the online selling data. However, due to the broad and diverse use of this data it is difficult to attach a specific dollar value to the program.”

Pay As You Go Withholding (PAYGW)

PAYGW is a withholding and reporting regime. As this consultation paper is only contemplating a reporting regime (not a withholding regime) this mechanism has not been considered further in this paper.

⁶ Refer - <https://www.ato.gov.au/About-ATO/Commitments-and-reporting/In-detail/Privacy-and-information-gathering/How-we-use-data-matching/?page=5#CrdrCARD>

⁷ The on-line selling protocol requests information about registrants who sold goods and services with a total annual value of \$12,000 or more during the 2015–16, 2016–17 and 2017–18 from Australian online selling sites.

⁸ <https://www.ato.gov.au/General/Gen/Online-selling-2015-16,-2016-17-and-2017-18-financial-years-data-matching-program-protocol/#SubmissiontotheInformationCommissioner>

It is noted that, if the amount of income derived from sharing economy platforms is significant, then a person may fall within the existing Pay As You Go Instalment regime (PAYGI) and may be required to make tax instalments.

Design of a sharing economy reporting regime

CAANZ agrees that the following factors listed in the consultation paper are relevant considerations in the design of the sharing economy reporting regime:

- Positive user experience
- Positively influences behavioural change in reporting taxable income
- Adopts a light touch regulatory approach
- Ensures a level playing field
- Ensures sufficient and reliable information is periodically received by the Government in a standardised format.

Other factors that need to be considered include:

- Avoidance of duplication of reporting under different regimes. Presumably the data protocols regarding on line selling and other sharing economy activities will cease once a sharing economy reporting regime is introduced. However, detailed consideration will need to be given as to how the sharing economy reporting regime and the TPRS are to interact. Consideration about how information received from business activity statements and a sharing economy reporting regime will be analysed and reconciled will also need consideration.
- Big bang initiatives are hard. Whilst it is desirable to get all the information that the Government needs from one initiative, such an approach often turns what seems like a simple project to one that is overwhelming. Obtaining the identification of entities participating in sharing economy platforms and linking them to payments associated with sharing economy platforms is essential. Having a short description regarding what the payment is about (e.g. services for dog walking or rent of a room) would be extremely useful. Requiring further detail may cause unfortunate delays in this initiative.

The consultation paper floats the idea that financial institutions may be an alternative reporting entity in relation to sharing economy activities. CAANZ does not support this option on the basis that the volume of data held by financial institutions may make it difficult to provide high quality timely data with sufficient links to sharing economy activities. It is noted that the new payments platform has made the identification of transactions easier, but the primary source of this data is the sharing economy platform operators themselves. Accordingly it is the sharing economy platform provider which should be the primary source of information.

Appendix B

Chartered Accountants Australia and New Zealand

CA ANZ is made up of over 120,000 diverse, talented and financially astute professionals who utilise their skills every day to make a difference for businesses the world over.

Members of CA ANZ are known for professional integrity, principled judgment and financial discipline, and a forward-looking approach to business.

We focus on the education and lifelong learning of members and engage in advocacy and thought leadership in areas that impact the economy and domestic and international capital markets.

We are represented on the Board of the International Federation of Accountants and are connected globally through the 800,000-strong Global Accounting Alliance, and Chartered Accountants Worldwide, which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.