

Ben Kelly
Deputy Commissioner
Policy, Analysis and Legislation
ATO

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Dear Ben

Electronic distribution platform reporting – LI 2022/D27

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 170,000 members in over 100 countries and regions. We make this submission on behalf of our members and in the broader public interest.

The draft legislative instrument **LI 2022/D7** and **explanatory statement** (ES) set out ATO reporting requirements for electronic distribution platforms¹ (EDPs), including biannual reporting and the need to collect and remit detailed personal information on those earning income from the platform (i.e., sellers).

An estimated 250,000 Australians work in the sharing economy and capture more than \$6.3 billion in consumer spending². With such levels of taxable activity being carried out through online platforms, we are supportive of using data and technology to help taxpayers and businesses manage their tax obligations. It is also important that shadow economy behaviours are addressed and that assessable income, wherever earned, is properly disclosed.

We reiterate what we consider to be the key considerations when implementing the reporting regime, as expressed in our August 2021 **submission** in response to Treasury **consultation** on the draft legislation and fact sheet. These include:

- Outside the largest EDPs, there is limited awareness amongst EDPs, especially offshore operators, of the new reporting laws, their applicability and associated obligations
- Many EDPs will have to spend time and resources to set up and maintain reporting systems, particularly smaller operators where potential concerns about data quality are most prevalent
- A lack of clarity for EDPs about their obligations, including:
 - distinguishing between supply of goods, real property or money (which are excluded from reporting) and all other transactions
 - identifying whether a supply is connected with Australia
 - identifying and excluding transactions that do not need to be reported (e.g., an amount must instead be withheld)
 - the ATO's view of "reasonable care"

¹ As defined in table item 15 in section 396-55 in **Schedule 1** to the *Taxation Administration Act 1953 (TAA)*

² Actuaries Institute, **The Rise of the Gig Economy and its Impact on the Australian Workforce Green Paper**, Institute of Actuaries of Australia, December 2020, viewed January 2023

- data quality and verification requirements
- consequences of incorrect reporting or non-reporting
- The need to minimise the collection of detailed personal information about sellers to reduce cybersecurity and identity theft risks to the EDP and their sellers
- The challenge for the Commissioner of Taxation to correctly determine the assessability of data-matched income. There is also the risk of incorrect amendments through default assessments or unnecessary inquiries being imposed on the taxpayer, particularly in relation to distinguishing hobby income from assessable income, or where the income is assessable to another entity
- Low seller awareness about their tax obligations, particularly for activities such as renting rooms, walking dogs or lending luxury handbags, and low likelihood that they are maintaining sufficient records to claim deductible expenses
- The need for further detail on the ATO's education, communication and compliance approach given the expected high number of affected EDPs and taxpayers.

We anticipate that the increased visibility of income data to the ATO will lead to the detection of many instances of potential non-compliance. In addition to unreported income, technical issues may arise such as the interaction with GST, withholding³ and deductibility of expenses, as well as administrative issues related to record-keeping and substantiation. Potentially, there may be issues in relation to whether the seller is an employee or not. We suggest that the ATO considers how best to inform sellers of the breadth of their obligations and help resolve their issues.

With reporting commencing from 1 July 2023 for taxi travel and short-term accommodation, and then reporting commencing from 1 July 2024 for all other non-excluded transactions, taxpayers will need to be informed about the reporting of their data to the ATO. They will also need to be educated about their tax and record-keeping obligations.

We recommend that an extensive campaign be developed in collaboration with EDPs, professional associations and taxpayers. This should include an educative and light-touch compliance approach for the first years of implementation, targeted communications and streamlined objection procedures for when data has been incorrectly matched. Matched data should be made visible to the taxpayer and their tax agent as soon as possible and notifications should be issued.

Tax agents will play an important role in educating clients as well as resolving enquiries from the ATO. For some agents there may be multiple years with many technical issues to address. Visibility of matched data, clear guidance, ATO technical support and transparent compliance and objection procedures will be required so that agents can best assist taxpayers to meet their obligations.

If you have any queries, contact Elinor Kasapidis, Senior Manager Tax Policy on 0466 675 194 or elinor.kasapidis@cpaaustralia.com.au.

Yours sincerely,

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³ As defined in Division 12 in Schedule 1 to the TAA