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28 September 2026

Dear Sir/Madam,

Monthly Pay as you go instalments – Exposure Draft

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 176,000 members in over 100 countries and regions. We make this submission in response to the Exposure Draft released on 11 September 2026 relating to **Monthly Pay as you go instalments – Exposure Draft** (ED).

Executive summary

CPA Australia supports measures that improve flexibility in the Pay As You Go (PAYG) instalment system, including voluntary monthly instalments where these better align with a taxpayer's cash flow, reporting systems and compliance arrangements. However, any Commissioner power to mandate monthly instalments should be carefully targeted, proportionate and supported by clear procedural safeguards.

In our view, the draft legislation should be improved by defining the threshold for a 'history of failing to comply', ensuring determinations are limited to material and repeated non-compliance of income tax only, and providing timely pathways out of mandatory monthly instalments once compliance has been restored.

The proposed framework should also include clear review rights, practical revocation processes, statutory or administrative timeframes for ATO decisions, and appropriate safeguards for small businesses, micro-businesses and taxpayers with seasonal or volatile income. These measures would help ensure the reforms achieve their intended cash flow and compliance objectives without imposing disproportionate administrative costs.

Key comments and recommendations

- *Support flexible PAYG instalment options:* CPA Australia supports voluntary monthly PAYG instalments where they better align with a taxpayer's cash flow, reporting systems and compliance arrangements.
- *Define the compliance threshold:* The legislation should clearly define what constitutes a 'history of failing to comply' and limit Commissioner determinations to material and repeated non-compliance of income tax only.
- *Ensure Commissioner discretion is proportionate:* The Commissioner should be required to consider the taxpayer's circumstances, including whether any default has been rectified, whether a payment arrangement is in place, and whether the taxpayer has acted reasonably.
- *Provide timely pathways out of monthly instalments:* Taxpayers should be able to return to their previous instalment cycle once compliance has been restored, including from the start of the next instalment quarter where appropriate.
- *Clarify revocation and reversion rules:* The rules should confirm that taxpayers who were previously quarterly payers automatically revert to quarterly instalments when a determination is revoked.

- *Strengthen review rights and dispute protections:* ATO determinations should be subject to clear review rights, including Part IVC objection processes, with appropriate protections while a dispute is being resolved.
- *Manage compliance costs for small businesses:* Safeguards should be included for small businesses, micro-businesses and taxpayers with seasonal or volatile income, to ensure the compliance burden does not outweigh the intended cash flow benefits.
- *Require clear ATO guidance and decision timeframes:* The ATO should publish practical guidance on eligibility, suitability, variations, due dates and reversion rules, and should apply clear timeframes when considering revocation requests.
- *Support implementation through systems testing:* The ATO should work with software providers, registered tax agents and the tax profession to test lodgement, calculation and notification processes before commencement.
- *Adopt a practical approach to variations and interest charges:* The ATO should provide administrative relief from general interest charge where taxpayers have acted reasonably and in good faith, particularly during early implementation.

Please refer to the Appendix for our detailed comments. If you have any queries, contact Jenny Wong, Tax Policy Lead on jenny.wong@cpaaustralia.com.au or Bill Leung, Tax Technical Advisor on bill.leung@cpaaustralia.con.au.

Yours sincerely,

Jenny Wong
Tax Policy Lead

Appendix A

This appendix sets out CPA Australia's detailed comments and recommendations on the ED legislation.

Legislative amendments

To address the technical flaws, friction points, and drafting gaps in the ED, specific statutory amendments will need to be applied:

1. Define 'history of failing to comply' (s 45-139)

The ED gives the Commissioner the power to mandate monthly reporting for entities with a demonstrated "history of failing to comply". However, the legislation fails to define what triggers this threshold. Without an objective legislative metric (e.g., number of days overdue, specific penalty thresholds, or dollar amounts owed), it leaves excessive administrative discretion to the ATO, creating severe uncertainty for struggling small businesses. Furthermore, the ED should be limited to obligations relating to income tax. Under the exposure draft, a taxpayer may become a monthly payer where they have a history of failing to comply under any taxation law. This definition is unduly broad, as it extends to any Act administered by the Commissioner. Where a taxpayer has consistently lodged and paid income tax on time, it is unclear why unrelated compliance issues, such as FBT or Superannuation Guarantee obligations, should be relevant to determining their PAYG instalment cycle. The PAYG instalments are about collecting income tax, not any other taxes. The scope of the ED should be limited to income tax obligations only. We suggest the following amendments to the legislation:

- *Statutory definition:* Insert a threshold definition into section 995-1 of the *ITAA 1997* or within section 45-139. Define a failure history as requiring at least two consecutive tax periods of material default, unrectified tax debt exceeding a specified amount (e.g., $10,000) for more than 90 days, or formal administrative penalty notices.
- *Proportionality scope:* Amend s 45-139(1) to limit defaults to primary income tax and PAYG obligations only, not any other taxes and excluding minor or ancillary peripheral breaches (such as minor late lodging under separate acts).

2. Introduce administrative relief and immediate revocation (s 45-139A)

Under the ED, if a business voluntarily opts into the monthly system, they can only revert to quarterly reporting from the start of their next income year. However, the lack of intra-year flexibility defeats the purpose of "dynamic" tax management. If a business suffers a sudden, catastrophic drop in trading or a natural disaster in month two, they are legally locked into monthly administration for the remaining ten months of the financial year.

- *Mid-year early revocation:* Amend subsection 45-139A(2) to allow a revocation by the taxpayer to take effect at the start of the next instalment quarter (rather than the next income year) once the taxpayer remedies all non-compliance issues and maintains clean compliance for 6 months.
- *De minimis exemption:* Add a statutory safe harbour in s 45-139 exempting micro-business entities and primary producers under a specific annual turnover threshold (e.g., turnover under $2 million or net tax liability under $50,000) from mandatory determinations to protect working capital.

3. Statutory stay and Part IVC protections

Under the *Treasury Laws Amendment (Tax Reform No. 5) Bill 2026*, the Part IVC objection process serves as the primary legal avenue for businesses forced into monthly PAYG instalments by the ATO.

- *Automatic stay during dispute:* Insert a provision stating that if a taxpayer lodges a timely objection under Part IVC of the *Taxation Administration Act 1953* against a determination made under s 45-139(1), the operation of the determination is automatically stayed until 28 business days after the Commissioner's objection decision or the final determination of tribunal/court proceedings.
- *Expedited review track:* Clarify that objections under s 45-139(5) must be determined by the Commissioner within 60 days, failing which the determination is deemed revoked.

4. Clarify systemic reversion mechanics (s 45-139A and s 45-140)

- *Quarterly payer safeguard:* Expand subsection 45-139A(5) to confirm that a former quarterly payer automatically reverts to quarterly status upon the revocation of a determination, eliminating statutory ambiguity.
- *Flexible voluntary election window:* Extend the notice deadline for voluntary opt-in/opt-out under s 45-139B and s 45-136(6) to the due date of the first instalment for that income year (e.g., 21 October for standard balancing entities), aligning it with real-world tax planning timelines.

5. Mandatory response time (s 45-139A and s 45-140)

The Explanatory Materials (EM) to the ED state that if an entity is subject to an ATO determination, they remain a monthly payer until it is formally revoked. They cannot use standard quarterly provisions to override it, even if their underlying financials radically change.

- *Revocation certainty:* If a business files a revocation request, the ATO must process it, but the ED does not impose a mandatory statutory timeframe for the ATO to respond. A business could be stuck paying costly monthly cycles for months while waiting for ATO processing.
- *Revocation decision timeframe:* Establish a statutory written notice timeframe of 28 business days for processing revocation requests where applicants have submitted all required information in full (s 45-139A).

Administrative amendments

1. Commissioner determination power should be targeted and supported by clear safeguards

The ED allows the Commissioner to require certain taxpayers with a history of non-compliance to pay PAYG instalments monthly. CPA Australia supports proportionate action to improve compliance, but the threshold for using this power should be clearly defined in legislation or accompanying explanatory materials.

- A 'history of non-compliance' should be limited to material and repeated failures, rather than isolated late lodgments, minor administrative errors or short-term cash flow issues. Administrative safe harbours and relief provisions will need to be provided, e.g., specifying that a single late lodgement does not trigger a mandated monthly compliance.
- The Commissioner should be required to consider relevant taxpayer circumstances, including the reason for any default, whether the default has been rectified, and whether a payment arrangement is in place and being complied with.
- Determinations should be subject to clear review rights, including streamlined access to Part IVC objection processes and appropriate administrative review protections.

2. Pathways out of mandatory monthly instalments should be timely and practical

Taxpayers required to pay monthly because of a Commissioner determination should have a practical pathway back to their previous payment cycle once compliance has been restored. A determination that can only cease from the next income year will be disproportionate where the taxpayer has promptly rectified the issue and demonstrated sustained compliance.

Consistent with the legislative recommendation above, revocation should take effect from the start of the next instalment quarter once the Commissioner is satisfied that the relevant non-compliance has been addressed. Administrative guidance should focus on the process, evidence requirements and expected response times, rather than restating the reversion rule.

3. Administrative and compliance costs should not outweigh the intended cash flow benefits

Moving taxpayers from quarterly to monthly instalments will increase bookkeeping, reconciliation and adviser costs, particularly for small businesses that do not already maintain monthly reporting processes. We submit that taxpayers should not be encouraged or required to move to monthly instalments unless the cash flow benefits are likely to exceed the additional compliance burden. We recommend ATO guidance should clearly explain when monthly instalments may be suitable, including for taxpayers with seasonal or volatile income, and when quarterly instalments are likely to remain more appropriate.

4. Systems readiness and software implementation require adequate testing

The effectiveness of monthly PAYG instalments will depend on reliable digital systems, clear data flows and adequate readiness across taxpayers, registered tax agents, software providers and the ATO. The opt-in system will rely on dynamic PAYG tax management and ATO-approved calculations integrated into business accounting software, but not all small or micro-businesses will have the same digital capability. Any broader rollout should therefore be supported by sufficient testing, practical guidance and a realistic implementation timetable:

- The ATO should work closely with software providers and the tax profession to test lodgement, calculation and notification processes before commencement.
- Transitional administrative concessions should be available where early system errors or software limitations contribute to lodgement or payment errors.
- Taxpayers and advisers should receive timely notification of monthly obligations, calculation methods, due dates and reversion rules.

5. Variation and general interest charge risks should be managed fairly

Monthly instalments will likely increase the frequency of PAYG variation decisions and the risk of estimation errors. We recommend that the ATO adopt a practical compliance approach and guaranteed general interest charge remission where taxpayers have acted reasonably and in good faith, particularly during the early implementation period:

- ATO guidance should clarify how taxpayers can demonstrate a reasonable basis for monthly variations, including through contemporaneous business records, software-generated calculations and current trading data.
- Administrative relief from general interest charge should be available where a taxpayer has used a reasonable methodology, maintained appropriate records and corrected any shortfall within a reasonable period.
- The ATO should avoid treating genuine forecasting errors as evidence of non-compliance where the taxpayer has made reasonable efforts to meet their obligations.