

# ***LCR 2018/D8 - Expansion of the taxable payments reporting system to road freight, security, investigation or surveillance, and information technology services***

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This document has been finalised by LCR 2019/4.

! There is a Compendium for this document: **LCR 2019/4EC** .



## **Expansion of the taxable payments reporting system to road freight, security, investigation or surveillance, and information technology services**

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### **Relying on this draft Ruling**

This publication is a draft for public comment. When the final ruling issues, it will have the following preamble:

*This Ruling describes how the Commissioner will apply the amendments to the law made by Schedule 2 of the Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018.*

*If you rely on this Ruling in good faith, you will not have to pay any underpaid tax, penalties or interest in respect of matters covered by this Ruling if it does not correctly state how a relevant provision applies to you.*

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### **What this draft Ruling is about**

1. This draft Ruling<sup>1</sup> describes how the ATO intends to apply amendments made by Schedule 2 of the *Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018* (the Amending Act), in relation to the expansion of the taxable payments reporting system (TPRS).

2. The Amending Act requires entities that provide particular services to report details of transactions where they pay contractors to provide those services for them. The reporting requirement will apply to such payments made on or after 1 July 2019, unless a reporting exemption applies.

### **Date of effect**

3. It is proposed that this Ruling will be finalised as a public ruling, effective from 1 July 2019, the commencement date of the Amending Act.

### **Context**

4. The tax law requires third-party reporting of tax-related information about certain transactions to the Commissioner.<sup>2</sup> The reporting of contractor payments was introduced in the building and construction industry from 1 July 2012. The TPRS extended reporting obligations from 1 July 2018 to courier services and cleaning services. The Amending Act further extend reporting obligations from 1 July 2019 to:

- road freight services
- security, investigation or surveillance services
- information technology (IT) services.

For the purposes of this Ruling, these listed services are collectively referred to as **relevant services**.

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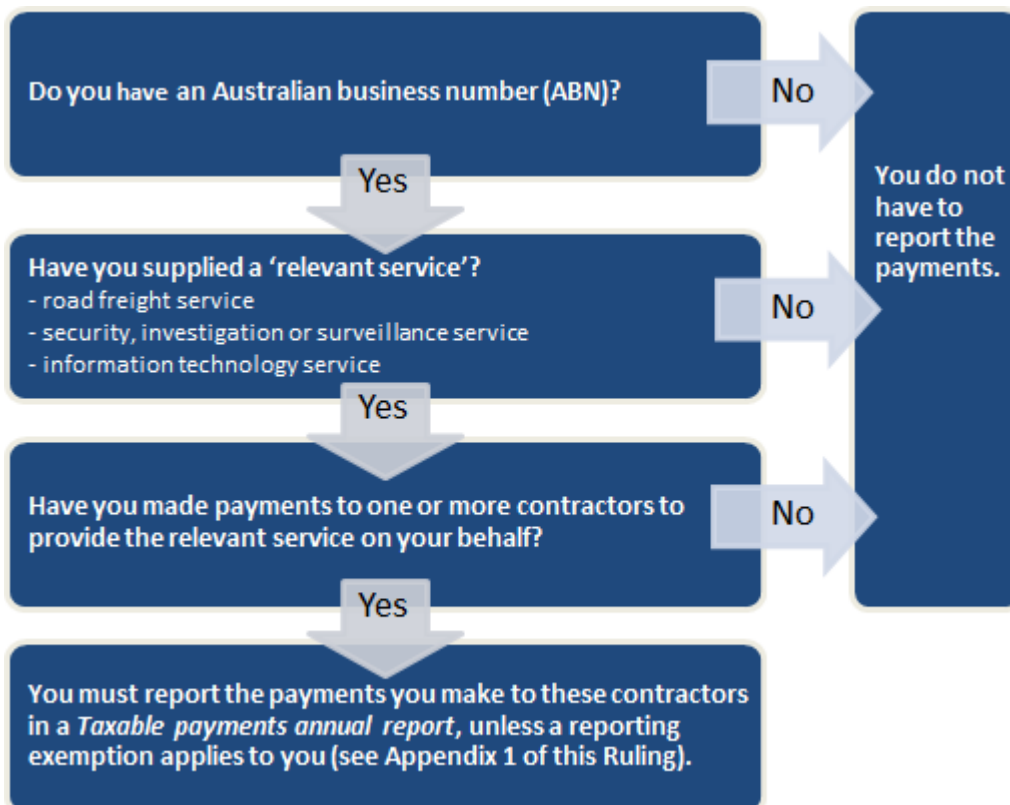
<sup>1</sup> All further references to 'this Ruling' refer to the Ruling as it will read when finalised. Note that this Ruling will not take effect until finalised.

<sup>2</sup> Division 396 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

## Reporting requirement

5. Suppliers of relevant services must report any payments made to contractors if:
  - the supplier has an Australian business number (ABN)<sup>3</sup>
  - the payment is wholly or partly for providing that service on their behalf, and
  - a reporting exemption does not apply to them (see Appendix 1 of this Ruling).
6. Contractors (or sub-contractors) include sole traders (individuals), companies, partnerships and trusts.<sup>4</sup> The identity of the recipient (of the service) is not a relevant factor in determining whether a reporting obligation applies.
7. You are required to report the total payments you make to contractors in the income year in which the payments are actually made (cash basis).

## Work out if you need to report



## Entities that make a supply

8. 'Supply' takes its meaning from section 9-10 of *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
9. You supply a relevant service when you provide it to your customer or client.<sup>5</sup>

<sup>3</sup> Any ABN holder may be subject to the reporting requirement (including individuals, businesses and charities).

<sup>4</sup> Table items 11 and 12 in section 396-55 of Schedule 1 to the TAA use the word 'entity', which is defined in section 8AAZA of the TAA as meaning 'a company; a partnership; a person in a particular capacity of trustee; a body politic; a corporation sole; any other person'.

<sup>5</sup> See Goods and Services Tax Ruling GSTR 2006/9 *Goods and services tax: supplies*.

10. If a service you provide to your customer or client can be split into separately identifiable parts and at least one of these parts is a 'relevant service', then that part is a supply of a relevant service for the purposes of lodging a *Taxable payments annual report* (TPAR). (We refer to this as a **mixed supply**.<sup>6</sup>)

11. If you provide a relevant service that is merely ancillary or incidental to another product or service you provide, then you are not supplying a relevant service for the purposes of lodging a TPAR. (We refer to this as a **composite supply**.<sup>7</sup>)

### **Road freight services**

12. **Road freight service** includes transportation of freight by road, the renting of trucks with drivers for road freight transport and road vehicle towing services.

13. 'Transportation of freight by road' is the transport by road of goods, wares, merchandise, material or any thing whether in its raw state or natural state, wholly or partly manufactured state or of a solid, liquid or gaseous nature or otherwise, and/or livestock. Typically, goods will be sent by road freight where the goods are transported in bulk using large vehicles.

14. Examples of included activities are:

- furniture removal service
- log haulage service
- road freight forwarding service
- truck hire service (with driver).

15. Road freight services do not include:

- passenger transport services (for example, buses and taxis)
- courier services<sup>8</sup>
- operation of road freight terminals
- providing crating and packing for road freight transport
- leasing or hiring trucks without drivers.

16. Where an arrangement with a customer involves the supply of goods delivered to the customer via road freight services, you must determine whether the supply is a composite supply of delivered goods or a mixed supply of a road freight service and of goods:

- Where the delivery is integral (that is, integrated), ancillary or incidental to the supply of the goods, the supply is a **composite supply** of delivered goods. The freight involved in the composite supply will therefore not constitute the supply of a road freight service.
- Where the delivery is a significant component, or could realistically be made as a separate supply, the supply is a **mixed supply** of a freight service and the goods. The supply of the freight service as part of the mixed supply will therefore be a supply of a road freight service.

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<sup>6</sup> This principle adopts the concept of 'mixed supplies' as it is used in relation to GST, see Goods and Services Tax Ruling GSTR 2001/8 *Goods and services tax: Apportioning the consideration for a supply that includes taxable and non-taxable parts*.

<sup>7</sup> This principle adopts the concept of 'composite supplies' as it is used in relation to GST, see GSTR 2001/8.

<sup>8</sup> See Law Companion Ruling LCR 2018/8 *Expansion of the taxable payments reporting system to courier and cleaning services*.

17. The Commissioner's view on whether the integrated supply of delivered goods is a mixed or composite supply is contained in Goods and Services Tax Determination GSTD 2002/3 *Goods and services tax: how do I account for GST when I supply taxable goods, non-taxable goods and delivery services together?*

**Example 1 – business providing road freight services**

18. *Longhaul Freight Pty Ltd operates a business (with an ABN) that transports bulk groceries from grocery suppliers to supermarket stores and engages contractors (driver-owners with semi-trailers) to provide this service. Longhaul Freight is transporting bulk quantities of groceries; it is supplying a road freight service. Their contractor drivers are moving the freight by road for them, therefore are providing road freight services on behalf of Longhaul Freight. Longhaul Freight is required to report payments to these contractors, which occur on or after 1 July 2019, in a TPAR (unless a reporting exemption applies).*

19. *Longhaul Freight has also engaged contractors to provide their business administration services. These contractors are not engaged to provide a relevant service (in this case, road freight services), nor are they engaged to provide a service on Longhaul Freight's behalf; therefore payments to these contractors are not reportable.*

20. *Longhaul Freight has an agreement to transport a consignment of bulk groceries to a supermarket in a remote location. There is only one main road to this location from Longhaul Freight's nearest distribution centre and the road is not suitable for heavy vehicles. Longhaul Freight divides the consignment into smaller loads and engages contractor drivers to transport these smaller loads in vans to the supermarket. As the agreement between parties was for the transportation of a bulk quantity from one location to another, Longhaul Freight is still supplying a road freight service (not a courier service) even though it transports the groceries in smaller vehicles. The manner of transport does not necessarily change the nature of the service provided. Longhaul Freight is therefore required to report payments made to these contractor drivers, which occur on or after 1 July 2019, in a TPAR (unless a reporting exemption applies).*

**Example 2 – freight forwarding business**

21. *Rapport Freight Pty Ltd has an ABN and provides freight forwarding services across Australia. Rapport Freight occasionally uses contractors (which supply their own vehicles) to provide freight forwarding services on Rapport Freight's behalf.*

22. *Rapport Freight is engaged to transport a large consignment of new cars for a car company. The cars arrive at a port in Fremantle and Rapport Freight engages contractors to transport these cars via road to the car company's facilities in Melbourne.*

23. *Rapport Freight's transportation of the consignment of cars via road is a road freight service that it supplies to its car company client. Rapport Freight is therefore required to report its payments made to contractors to provide that service, which occur on or after 1 July 2019, in a TPAR (unless a reporting exemption applies).*

**Example 3 – delivered goods**

24. *A large masonry manufacturer has a number of separate divisions. One division manufactures concrete bricks. Although these can be picked up in small quantities by builders, they are regularly delivered to landscape suppliers in bulk. The cost of delivery is added on to the cost of the bricks. The delivery is not incidental to the supply of the bricks.*

25. *By contrast, the business also supplies ready-mix concrete. The concrete is sold at an agreed price per cubic metre. The distance which it can be transported (due to the*

*nature of the product) for delivery is short. The nature of the ready-mix concrete is that it is designed to be ready to use at the place and time it is delivered. The delivery of the concrete is integral to the supply of the ready-mix concrete.*

### **Security, investigation or surveillance services**

26. **Security service** includes patrolling, protecting, screening, watching or guarding any people, premises or property, by any means.

27. **Investigation service** includes searching enquiries being made by any means into one or more specific individuals or matters, to determine facts or gather evidence. Although potentially very broad in application, ‘investigation’ in this context is to be understood by reference to the terms ‘security’ and ‘surveillance’.

28. Investigation services involve more than mere information gathering. For example, telemarketers conducting surveys are not providing investigation services. Similarly, a service will not be an investigation service if it merely involves a routine record check (for example, a police check).

29. **Surveillance service** includes watching or observing an area or location and monitoring of security systems. These services may overlap with security services as identified in paragraph 26 of this Ruling.

30. Examples of security, investigation or surveillance services include:

- locksmithing
- burglary protection
- alarm monitoring and response
- armoured car service
- detective agency service
- night watch service
- crowd, event or venue control
- body guarding or close personal protection
- operating a security control room or monitoring centre
- operating security screening equipment (such as prohibited item detectors, x-ray scanners, and explosive trace detection)
- security guard service.

31. Security, investigation and surveillance services do not include:

- police services (civil and criminal law enforcement)
- surveillance of country borders
- providing aerial surveying or mapping services
- academic or market research
- manufacture, retail, installation, maintenance or repair of fire alarm systems
- manufacture or retail of security, investigative or surveillance devices (such as security alarms or cameras, or voice recorders)
- providing key cutting/duplication services.

**Example 4 – business providing alarms, monitoring and response services**

32. *Response Now Pty Ltd has an ABN and provides the following services:*

- *sales of security alarms and cameras to entertainment venues*
- *installation services for those products*
- *alarm monitoring services*
- *on-call rapid response teams for significant crowd control situations.*

33. *The provision and installation of security alarms and cameras, alarm monitoring services and crowd control services are each separate services that are not ancillary or incidental to each other. Response Now must consider whether these three separate services constitute relevant supplies.*

34. *The sale and installation of alarms is not a relevant service. Merely supplying and installing a security device does not amount to providing security or undertaking some form of surveillance or investigation. Conversely, alarm monitoring and crowd control services are a supply of a security, investigation or surveillance service because they involve watching or protecting individuals, premises or property.*

35. *Response Now is therefore required to report payments they make to contractors that provide alarm monitoring or crowd control services on their behalf, which occur on or after 1 July 2019, in a TPAR (unless a reporting exemption applies). Response Now is not required to report any payments made to contractors that sell or install the security alarms and cameras on their behalf.*

**Information technology services**

36. In the context of TPRS reporting obligations, a supply of Information Technology services (**IT services**) involves the provision of expertise in the field of information technologies such as writing, modifying, testing or supporting software to meet the needs of a client; or planning and designing computer systems that integrate computer hardware, software and communication technologies.

37. Examples of included activities are (without limitation):

- IT consulting service
- computer network systems design and integration service
- computer programming service
- computer software consulting service
- computer hardware consulting service
- computer facilities management
- internet and web design consulting service
- software development (customised) service (except publishing)
- software installation service
- software simulation and testing service
- systems analysis service.

38. Examples of excluded activities are:

- mass producing computer software (we consider this the reproduction of recorded media)



- leasing or hiring computers or other data processing equipment (we consider this ‘goods and equipment rental and hiring services’)
- providing data processing services or computer data storage and retrieval services (we consider this ‘data processing, web hosting and electronic information storage services’)
- installing computer cables (we consider this ‘electrical services’).

**Example 5 – manufacturing and selling computer peripherals and associated software**

39. *Compass Drives Pty Ltd operates a business (with an ABN) of manufacturing USB drives and hard drives. Compass sells the USB drives to retail stores, which then sell them to consumers. The manufacture and supply of computer hardware and peripherals for consumers, such as USB drives, is not a supply of an IT service. Compass Drives therefore does not have to report in a TPAR the payments it makes to any contractors who are engaged to assist in this.*

40. *Compass Drives also engages contractors to write USB drive optimisation software, which Compass Drives then sells separately via its website and bundles in with its high-end products. The software being sold by Compass Drives is sold as a product rather than a service, being made available to consumers generally. It is not designed for, or in response to, the needs of a client. Therefore, Compass Drives is also not supplying an IT service when it develops or engages contractors to develop this software. Compass Drives is not required to report in a TPAR the payments it makes to any contractors who develop this software on its behalf.*

**Example 6 – company designing local area networks for large businesses**

41. *Whiz Networking Pty Ltd has an ABN and provides the following services to its clients:*

- *design and implementation of local area networks and intranets*
- *supply and installation of network hardware and associated cables*
- *testing services*
- *ongoing technical support.*

42. *Whiz Networking uses contractors to install and test the network hardware, develop, implement and test the intranet, and for providing ongoing technical support. The design, development, installation and testing of local area networks and intranets is an IT service Whiz Networking supplies to its clients. The ongoing technical support that Whiz Networking provides is also an IT service being supplied to clients. Whiz Networking is required to report payments it makes to these contractors in a TPAR (unless a reporting exemption applies).*

43. *Whiz Networking contracts a company to provide network hardware to its clients on its behalf. The supply of the hardware is not a supply of an IT service and therefore it is not a supply of a relevant service. Whiz Networking is not required to report payments it makes to this company.*

**Payments to contractors to provide this service on your behalf**

44. If you supply a relevant service, you must report payments you make during the income year to one or more contractors to provide that service on your behalf. Contractors you engage to provide other services are not within the scope of this reporting requirement.

45. If an invoice you receive from a contractor includes both labour and materials, whether itemised or combined, you are required to report the total amount of the payment.

46. You are required to report these payments in a TPAR unless a reporting exemption applies (see Appendix 1 of this Ruling).

#### **Example 7 – information technology company using both employees and contractors**

47. *Goodtime Software Pty Ltd has an ABN and develops accounting software for clients. An accounting firm engages Goodtime Software to write an accounting software suite that is tailored to the specific needs of the firm. Goodtime Software develops this suite for the accounting firm and provides ongoing software patches to rectify bugs as they are discovered.*

48. *The development of the software suite for the accounting firm is a supply of an IT service as the software has been developed for the client based on the outcome for which they contracted with Goodtime Software. The software was not produced for general sale or distribution. The writing of software patches for this accounting software is also a supply of an IT service, as the patch was written to address issues in the accounting software which was provided as a contracted service specifically developed for the client.*

49. *Goodtime Software has employees to develop the accounting software and uses contractors to write patches as required. Goodtime Software is not required to report the payments it makes to its employees as those payments are reported in its pay as you go (PAYG) withholding payment summary annual report. Goodtime Software is required to report payments it makes to its contractors as they are providing an IT service on its behalf (unless a reporting exemption applies).*

#### **Payments you don't need to report**

50. The following types of payments are not required to be reported in a TPAR:

- payments for materials only
- invoices unpaid at the end of the income year
- PAYG withholding payments, such as those you make to employees or under a voluntary agreement to withhold<sup>9</sup>
- payments within consolidated groups or multiple entry consolidated (MEC) groups<sup>10</sup>
- payments made by individuals for private or domestic reasons.

#### **Consolidated groups**

51. Payments within consolidated groups (and MEC groups) are excluded from the reporting obligation imposed by the Amending Act.<sup>11</sup> This exclusion does not extend to payments made by a member of a consolidated group to contractors outside the group.

52. As noted in paragraph 6 of this Ruling, the identity of the service recipient is not relevant in determining whether the TPRS reporting obligation applies. As such, an entity that is a member of a consolidated group who supplies a relevant service and pays someone outside the group to provide that service may have a reporting obligation

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<sup>9</sup> Column 2 of table items 12, 13 and 14 of section 396-55 of Schedule 1 to the TAA.

<sup>10</sup> See footnote 9 of this Ruling.

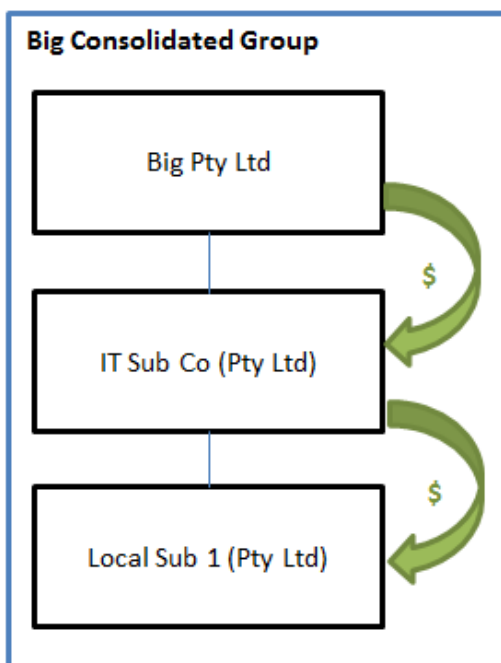
<sup>11</sup> See footnote 9 of this Ruling.

regardless of whether the recipient of the service is another member of the consolidated group or a third party outside the group.

53. The reason is that the core purposes for which the consolidation rules apply are limited to working out the amount of the head company and subsidiary members' liability for income tax and the amount of any loss.<sup>12</sup> That is, the single entity rule does not apply to the circumstances giving rise to TPRS reporting obligations.

**Example 8 – consolidated group**

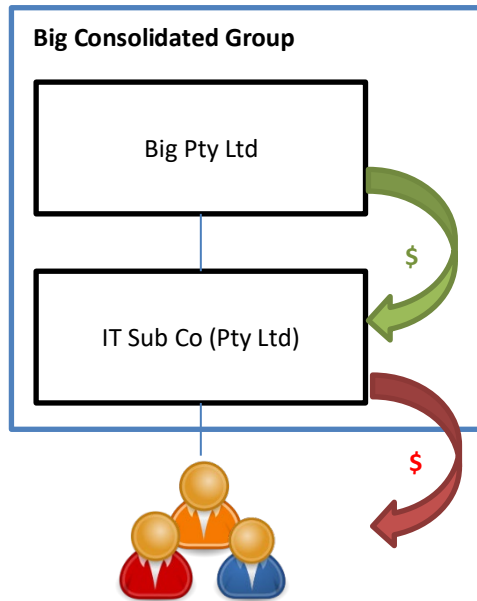
54. *Big Pty Ltd is the head company of a tax consolidated group which operates an online retail and auction business. It has structured their group such that each function is provided by a different subsidiary. IT Sub Co provides the IT services for the group and has set up a subsidiary company for each region they operate in: Local Sub 1 and Local Sub 2. The Local Sub companies employ local staff to provide the functions; they generally do not sub-contract out these functions. A partial group structure showing the payment flow of this arrangement:*



55. *IT Sub Co is providing IT services to Big, is engaging another entity to provide those services for it and has made payments under a contract to Local Sub 1 for those IT services. However, the payments are made by an entity that is part of a consolidated group to an entity within the consolidated group. Therefore, the payments are not subject to the TPRS reporting obligation.*

56. *In a later year, Big extends operations to a new region. IT Sub Co decides to trial contracting directly with local IT consultants (who are not within the consolidated group) for the first year of operations in that region, rather than set up another subsidiary company and local office of employees. A partial group structure showing the payment flow of this arrangement:*

<sup>12</sup> See subsections 701-1(2) and (3) of the *Income Tax Assessment Act 1997* and Taxation Ruling TR 2004/11 *Income tax: consolidation: the meaning and application of the single entity rule in Part 3-90 of the Income Tax Assessment Act 1997*.



57. As IT Sub Co has an ABN, supplies a relevant service (being IT services) to Big and makes payments to contractors outside the consolidated group to provide those IT services, IT Sub Co must report the contractor payments in a TPAR (unless a reporting exemption applies).

## **Appendix 1 – Reporting exemption**

**ⓘ** *This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It will not form part of the proposed binding public ruling.*

58. If you have an ABN, supply a relevant service and make payments to one or more contractors to provide that service on your behalf, as described in this Ruling, you must report information about those payments to the Commissioner in a TPAR. However, if your circumstances are within a reporting exemption, you are exempt from the requirement to report these payments.

59. The reporting exemptions, which are grouped and we refer to each as a category for present purposes, are:

- Where payments received by the entity for **courier services and road freight services** are less than 10% of the entity's current or projected GST turnover (whichever is applicable to the business).<sup>13</sup>
- Where payments received by the entity for **security, investigation or surveillance services** are less than 10% of the entity's current or projected GST turnover (whichever is applicable to the business).
- Where payments received by the entity for **IT services** are less than 10% of the entity's current or projected GST turnover (whichever is applicable to the business).

60. Two of the reporting exemption categories (IT services and security, investigation or surveillance services) are proposed to be established by the Commissioner under a legislative instrument. The reporting exemption for road freight services is established in the Amending Act as an amendment to the reporting exemption for courier services enacted by Schedule 2 of the *Treasury Laws Amendment (Black Economy Taskforce Measures No. 1) Act 2018*.

61. Even if not required to report contractor payments under the tax law, an entity may still lodge a TPAR setting out details of transactions.<sup>14</sup> If you decide to voluntarily report payments to contractors, that choice does not restrict you from choosing whether or not to give a report for a later period.<sup>15</sup>

### **Work out if a reporting exemption applies**

62. If you supply a relevant service and make payments to contractors to provide those services on your behalf, use this formula (applied to each category) to work out if you are exempt from reporting those payments:

$$\frac{\text{Total payments you receive for supplies of a relevant service in the income year}}{\text{Total current or projected GST turnover of your entity}} \times 100$$

<sup>13</sup> Schedule 2, item 3(2) of the Amending Act.

<sup>14</sup> Paragraph 2.39 of the Explanatory Memorandum to the Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Bill 2018.

<sup>15</sup> Paragraph 2.40 of the Explanatory Memorandum to the Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Bill 2018.

63. If the result of you applying this formula is less than 10%, you do not have to report the payments to contractors for supplying the relevant service on your behalf.

64. Your **current GST turnover** for the purposes of the formula is your GST turnover for the current income year, provided you have been operating as a business for at least 12 months.<sup>16</sup> If you have been operating as a business for less than 12 months, then you must use 'projected GST turnover' in the formula.<sup>17</sup> Your **projected GST turnover** for the purposes of the formula is your likely GST turnover for the following income year.<sup>18</sup> Entities in a GST group use the turnover of the GST group.

65. When you calculate the total payments you receive for supplies of a relevant service for the income year, you must include all payments you receive for those services you provide, regardless of whether an employee or a contractor performed those services for you.<sup>19</sup>

66. If your business supplies more than one relevant service, you must work out if the entity is exempt under each relevant category of grouped services separately. For example, there is a single reporting obligation for courier and road freight services, and supplies of both of those services should be combined to determine whether an entity exceeds the turnover threshold test. If the entity is exempt from reporting contractor payments for one category, but not for another category, the contractor payments for the latter group of services must be reported.

#### **Example 9 – business providing two relevant services**

67. *Big Rig Services has an ABN and provides logistics support to its mining, construction and civil project customers. It is a supplier of multiple distinct services to its clients. Big Rig's primary offering is transporting heavy earthmoving and mobile plant between project sites. It also offers security services at the sites to patrol perimeters and guard equipment outside of operating hours. These are separate supplies. Big Rig engages contractor drivers and contractor security guards to provide services on their behalf.*

68. *In the 2019–20 income year, the total current GST turnover for Big Rig is \$10 million; \$7 million of which was received for road freight services and \$800,000 for providing security services. Therefore:*

- (a) *The payments it received for road freight services are 70% of its current GST turnover for that year, and Big Rig is not exempt from reporting the payments it made to its contractors who provide road freight services on its behalf.*
- (b) *The payments it received for security services are 8% of its current GST turnover for that year, and Big Rig is exempt from having to report their payments to contractors who provide security services on its behalf.*

#### **Example 10 – business providing courier and road freight services**

69. *Transport Traders Pty Ltd has an ABN and transports a wide variety of goods in bulk quantities for other businesses. It also has a separate business which provides parcel delivery services. It therefore supplies both road freight and courier services.*

<sup>16</sup> Section 188-15 of the GST Act.

<sup>17</sup> Schedule 2 item 3(7) of the Amending Act. See also Goods and Services Tax Ruling GSTR 2001/7 *Goods and services tax: meaning of GST turnover, including the effect of section 188-25 on projected GST turnover.*

<sup>18</sup> Section 188-20 of the GST Act.

<sup>19</sup> Schedule 2 item 3(2)(a) of the Amending Act.

70. *Transport Traders regularly engages contractors (who provide their own vehicles) in both the road freight and courier parts of its business to transport bulk goods and deliver parcels.*

71. *In the 2018–19 income year, the total current GST turnover for Transport Traders is \$5 million; \$4.55 million of that was received for its bulk goods transport business (road freight services) and \$450,000 for its parcel delivery business (courier services).*

*Therefore:*

- (a) There is no reporting obligation for payments to contractors for road freight services in the 2018–19 income year because the expansion of TPRS to road freight services does not apply to payments made before 1 July 2019.*
- (b) The payments that Transport Traders receives for courier services in the 2018–19 income year are 9% of its current GST turnover for the year, so Transport Traders' payments to courier contractors made in 2018–19 are below the 10% threshold and therefore within a reporting exemption category.*

72. *In the 2019–20 income year, the total current GST turnover for Transport Traders is \$7 million; \$6.4 million received for road freight services and \$600,000 for courier services. As the relevant exemption is based on the total payments received for road freight and courier services combined (as one category) as a percentage of current GST turnover, the payments received for both services are added together to work out whether an exemption applies. The total payments received for road freight and courier services is 100% of Transport Traders' current GST turnover for the 2019–20 income year. Therefore, Transport Traders is not exempt, in that year, from reporting the payments it makes to contractors who provide these services on its behalf.*

**Example 11 – business that has been operating for less than 12 months**

73. *Jared and Ismail operate a business with an ABN that supplies security services. They hire contractors to provide security services to small businesses on their behalf.*

74. *Jared and Ismail's business has been operating for five months by the end of the 2019–20 income year. They are therefore required to use the businesses' projected GST turnover for the 2020–21 income year to calculate the percentage of payments that are received for relevant services.*

75. *Jared and Ismail project their business's GST turnover for 2020–21 to be \$300,000. The payments their business has received for security services in the 2019–20 income year are \$36,000.*

$$\frac{36,000}{300,000} \times 100 = 12\%$$

76. *As their payments for relevant services are not less than 10%, a reporting exemption does not apply. Jared and Ismail are therefore required to report payments their business has made to security contractors in the 2019–20 income year.*

## **Appendix 2 – Compliance approach**

**ⓘ** *This Appendix sets out a proposed practical administration approach to assist taxpayers in complying with relevant tax laws. It will not form part of the final binding public ruling.*

77. The reporting obligation applies to transactions of a particular type and not necessarily to suppliers in a particular industry.

78. A business industry code (BIC) is a five-digit code you include on relevant tax returns and schedules that describes your main business activity. BICs are derived from the Australian and New Zealand Standard Industrial Classification (ANZSIC) codes and have been simplified for tax return reporting purposes.

79. Without limiting what actions the ATO may take, the ATO will use the industry code declared in income tax returns as an initial indicator of a potential obligation to report payments to contractors. The ATO expects that businesses who report under the following industry codes are likely to have an obligation to report where they use contractors to provide services:

- 46100 Road Freight Transport
- 70000 Computer System Design and Related Services
- 77120 Investigation and Security Services.

80. The 'Business industry code tool' is available on [ato.gov.au](http://ato.gov.au).



### **Appendix 3 – Your comments**

81. You are invited to comment on this draft Ruling including the proposed date of effect. Please forward your comments to the contact officer by the due date.

**Due date: 1 February 2019**

Contact officer details have been removed following publication of the final ruling.

## References

Legislative references	<p>ANTS(GST)A 1999  ANTS(GST)A 1999 9-10  ANTS(GST)A 1999 188-15  ANTS(GST)A 1999 188-20  ITAA 1997  ITAA 1997 701-1(2)  ITAA 1997 701-1(3)  TAA 1953  TAA 1953 8AAZA  TAA 1953 Sch 1 Div 396  TAA 1953 Sch 1 396-55  Treasury Laws Amendment (Black Economy Taskforce Measures No. 1) Act 2018  Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018</p>
Related Rulings/Determinations	<p>GSTD 2002/3  GSTR 2001/7  GSTR 2001/8  GSTR 2006/9  TR 2004/11  LCR 2018/8</p>
Other references	<p>Budget Paper No. 2: Budget Measures 2018-2019  Explanatory Memorandum to the Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Bill 2018</p>
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