



Explanatory Statement

Taxation Administration (Reporting by Electronic Distribution Platform Operators) Legislative Instrument 2023

General outline of instrument

- 1 This instrument is made under subsection 396-55(a)(ii) in Schedule 1 to the *Taxation Administration Act 1953* (the Act).
- 2 Under table item 15 in section 396-55 in Schedule 1 to the Act, operators of electronic distribution platforms are required to report information about certain supplies made through their platforms to the Australian Taxation Office (ATO).
- 3 This instrument replaces the default annual reporting period with six-monthly reporting periods. The substituted reporting periods will be from 1 January to 30 June, and 1 July to 31 December, in each calendar year.
- 4 This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
- 5 Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

- 6 This instrument commences on the day after it is registered on the Federal Register of Legislation. It has effect from different dates, depending on the type of transaction. It applies to transactions entered into on or after:
 - (a) 1 July 2023, for transactions that relate to a supply of taxi travel (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act))
 - (b) 1 July 2023, for transactions that relate to a supply of short-term accommodation, and
 - (c) 1 July 2024, for all other transactions to be reported under item 15 of the table in section 396-55 in Schedule 1 to the Act.

Effect of this instrument

- 7 Item 15 of the table in section 396-55 in Schedule 1 to the Act requires an operator of an electronic distribution platform (EDP) within the meaning of the GST Act (but disregarding paragraph 84-70(1)(c) of that Act) to prepare a report about specified transactions made through that EDP. The default period for which a report must be prepared is a financial year.
- 8 Subparagraph 396-55(a)(ii) in Schedule 1 to the Act allows the Commissioner to specify, by legislative instrument, an alternate period for which a report must be prepared (the reporting period).
- 9 This legislative instrument changes the default reporting period to require operators of an EDP to prepare a report every six months. The substituted reporting periods are the two six-

month periods from 1 January to 30 June, and from 1 July to 31 December, in each calendar year.

- 10 EDP operators who are required to prepare a report in relation to a period must give that report to the Commissioner by the 31st day after the end of that reporting period. This instrument does not change the date by which a report must be given to the Commissioner. For the avoidance of doubt, EDP operators will be required to give a report to the Commissioner at the end of each reporting period.
- 11 This instrument does not affect any other reporting requirements that reporting entities may have under section 396-55 in Schedule 1 to the Act.

Compliance cost assessment

- 12 Compliance cost impact: Minor – There will be no additional impacts as the instrument is minor and machinery in nature OBPR23-03880.

Background

- 13 This instrument has been developed to ensure that the ATO can more effectively support participants in the sharing economy to pay the correct amount of tax on any income they earn.
- 14 The ATO can better support taxpayers to meet their tax obligations when data is received prior to the lodgment of income tax returns and activity statements. This enables early engagement and education strategies to make it easier for taxpayers to get things right and promote behavioural change.
- 15 Early engagement is important for the sharing economy as some participants may not be fully aware of their tax obligations.
- 16 More frequent reporting will also enable the ATO to identify and consider strategies to address deliberate non-compliance and ensure a level playing field for all sharing economy participants more effectively.
- 17 Six-monthly reporting appropriately balances the need for, and benefits of, more regular reporting against the increase in the reporting burden imposed on electronic distribution platform operators.
- 18 Reducing the time lag between transactions occurring and the receipt of data enables the ATO to more effectively work with platform operators to improve their data collection, validation and reporting practices, increasing efficiency over time.
- 19 This also aligns data reporting frequency under the regime with reporting requirements under existing ATO data collection arrangements for the sharing economy.

Consultation

- 20 Subsection 17(1) of the *Legislation Act 2003* requires that a rule-maker undertake an appropriate level of consultation before making a legislative instrument.
- 21 Broad public consultation was undertaken on this instrument from 1 December 2022 to 3 February 2023. The ATO has also incorporated consultation on a bi-annual reporting period in all previous public consultation on the Sharing Economy Reporting Regime.
- 22 The draft instrument and draft explanatory statement were published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and

newsletters to their subscribers and members. The ATO also contacted EDP operators and industry representatives previously involved in public consultation and invited them to provide comment.

- 23 The ATO received comments via the consultation process about a perceived additional administrative burden that would be imposed by a change in the reporting frequency, as well as comments about the fact that there would only be a limited period of time between when the instrument was made and when it would start to take effect (from 1 July 2023, for certain transactions).
- 24 No changes have been made to the legislative instrument as a result of public consultation. However, the ATO has incorporated consideration of these comments into the overall implementation of the reporting regime and will continue to engage with and assist EDP operators to ensure that they can meet their reporting obligations.

Legislative references

Acts Interpretation Act 1901
A New Tax System (Goods and Services Tax) Act 1999
Human Rights (Parliamentary Scrutiny) Act 2011
Legislation Act 2003
Taxation Administration Act 1953

Statement of compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

Operators of electronic distribution platforms (EDPs) are required to report information about certain transactions made through their platforms to the Australian Taxation Office (ATO).

This instrument substitutes the default annual reporting period with an alternate six-monthly reporting period. The reporting periods will be from 1 January to 30 June, and 1 July to 31 December, each year. A report is required to be given to the ATO within 31 days of the end of each reporting period.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms. It only operates to increase the reporting frequency of information required, with a move from annual to bi-annual reporting. The increased reporting frequency will better enable the ATO able to assist taxpayers in meeting their tax obligations while ensuring a level playing field.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.