



Explanatory Statement

Taxation Administration (Third Party Reporting Exemptions for Certain Transactions by Government Related Entities) Determination 2026

General outline of instrument

1. This instrument is made under paragraph 396-70(4)(b) of Schedule 1 to the *Taxation Administration Act 1953* (the Act).
2. The instrument exempts government related entities (such as Federal, State and Territory departments, agencies and statutory bodies) from having to include certain financial transactions in reports they must give to the Commissioner under the third party reporting regime. However, such entities can still choose to report exempt transaction where the administrative burden of not reporting the transaction would be greater than reporting it.
3. The instrument is intended to reduce the administrative burden on such entities by exempting transactions that do not represent a high compliance risk or that cannot be easily identified as in-scope.
4. The 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.

Background

7. Section 396-55 in Schedule 1 to the Act requires certain entities to provide information to the Commissioner in relation to transactions that could reasonably be expected to have tax consequences for other entities. The Commissioner may use this third party reported information to conduct compliance and data-matching activities.
8. Table items 1 and 2 of section 396-55 in Schedule 1 to the Act require government related entities to report information to the Commissioner about the following transactions:
 - (a) the provision of a grant to an entity that has an Australian business number, and
 - (b) the provision of consideration to an entity for the supply of services.
9. However, under section 396-70 in Schedule 1 to the Act the Commissioner can exempt classes of entities from the requirement to report under section 396-55 in Schedule 1 to the Act for certain classes of transactions.

10. The *Classes of Transactions for which Government Related Entities are Exempt from Providing Third Party Reports Determination 2016* (2016 Instrument) provides exemptions from the requirement for government related entities to report certain classes of transactions under section 396-55 in Schedule 1 to the Act. These exemptions apply to transactions:

- (a) that are beyond the intended scope of the third-party reporting regime
- (b) that do not present a high compliance risk, and
- (c) where it is uncertain whether the consideration provided relates to a supply of a service or to another type of supply (such as, a supply of goods).

11. Providing exemptions from the requirement to report these transactions improves the efficiency of third party reporting by making it easier for government related entities to identify which transactions must be reported to the Commissioner under section 396-55 in Schedule 1 to the Act.

12. In circumstances where it would be administratively more difficult for government related entities to identify and exclude transactions in their reports, the 2016 Instrument allows government related entities to report on exempt transactions.

13. This instrument repeals and replaces the 2016 Instrument which would otherwise sunset on 1 October 2026. The instrument has the same substantive effect as the one it is replacing.

Effect of this instrument

14. Subsection 6(1) exempts government related entities from having to include the following classes of transactions in third party reports they would otherwise be required to give to the Commissioner under table item 1 or 2 of section 396-55 in Schedule 1 to the Act:

- (a) electronic payments for a grant or supply of services covered by table item 1 or 2 of section 396-55 in Schedule 1 to the Act that are made to a BPAY biller, by recurring direct debit, by debit or credit card payment through a merchant acquiring system, or via third party payment processors facilitating any of these payments, noting that
 - (i). a BPAY biller is a business that has a unique BPAY Biller identification number which allows customers of the business to pay their accounts through the BPAY system
 - (ii). a recurring direct debit entails a financial institution periodically deducting amounts from an account holder's account and paying the amounts to a biller
 - (iii). a merchant acquiring system is one in which a financial institution processes debit or credit card payments made to a business
 - (iv). a third party payment processor is an entity that facilitates electronic payments on behalf of businesses. A third party payment processor may hold a single merchant identification number or a BPAY Biller identification number through which all transactions are processed. Funds are collated by the third party payment processor and distributed to various businesses that use their services. Other terms for a third party payment processor include a third party payment provider, a third party provider or a third party payment facilitator.
- (b) payments to a carriage service provider for a carriage service
- (c) payments to utility providers for the provision of electricity, water, sewerage or gas
- (d) payments for the transportation of employees
- (e) payments to a general insurer for insurance services
- (f) payments for accommodation in commercial premises (such as for office space)

- (g) payments for accommodation in a hotel, motel, inn, hostel, boarding house, caravan park or camping ground
- (h) payments for the lease of goods
- (i) payments for the creation, grant, transfer, assignment or use under licence of a right
- (j) payments for a financial supply (such as shares loans, insurance etc)
- (k) payments for membership fees of a professional association or body
- (l) payments for services relating to the exercise of court or tribunal functions, including those provided to jurors, witnesses and advocates for minors
- (m) payments for a supply to another government related entity, and
- (n) grants provided to another government related entity.

15. Subsection 6(2) allows a government related entity to report transactions that are exempt under subsection 6(1) if the administrative burden on the entity of not reporting the transaction would be greater than reporting it. That is, where it is administratively easier to report exempt transactions, the entity can continue to report those transactions to the Commissioner under section 396-55 in Schedule 1 to the Act.

Compliance cost assessment

16. To be advised.

Consultation

17. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a determination.

18. As part of the consultation process, you are invited to comment on the draft instrument and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

Due date:	12 June 2026
Contact officer:	Liz Nelson
Email:	Liz.Nelson@ato.gov.au
Phone:	02 6216 6555

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

The instrument exempts government related entities (such as Federal, State and Territory departments, agencies and statutory bodies) from having to include certain financial transactions in reports they must give to the Commissioner under section 396-55 in Schedule 1 to the *Taxation Administration Act 1953* (the Act).

However, these entities may continue to report these exempt transactions where the administrative burden of not reporting the transaction would be greater than reporting it.

The instrument reduces the administrative burden on these entities by exempting certain transactions that do not represent a high compliance risk or that cannot be easily identified as within the scope of the third-party reporting regime.

Human rights implications

This instrument does not engage any of the applicable rights or freedoms as it merely specifies certain classes of transactions that government related entities are not required to report on under section 396-55 in Schedule 1 to the Act.

Conclusion

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