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## Explanatory Statement

# Taxation Administration (Change of Reporting Period for Third Party Reports on Real Property Transfers) Legislative Instrument 2026

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### General outline of instrument

1. This instrument is made under subparagraph 396-55(a)(ii) in Schedule 1 to the *Taxation Administration Act 1953* (the Act).
2. Item 3 of the table in section 396-55 of Schedule 1 to the Act requires the States and Territories to report to the Commissioner of Taxation any transfers of freehold or leasehold interests in real property situated in that State or Territory. This instrument specifies the reporting period for these reports as quarterly.
3. 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.
4. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

### Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.
6. This instrument repeals and replaces the instrument titled *Change of the Reporting Period for Third Party Reports on Real Property Transfers Determination 2016* (2016 Instrument) which would otherwise sunset on 1 October 2026. This instrument has the same substantive effect as the 2016 Instrument.

### 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 the information to conduct compliance and data-matching activities.
8. Item 3 in the table in section 396-55 of Schedule 1 to the Act requires the States and Territories to report transfers of freehold or leasehold interests in real property to the Commissioner. Paragraph 396-55(a) of Schedule 1 to the Act sets the reporting period to be either a financial year or another period the Commissioner specifies by legislative instrument.
9. The Explanatory Memorandum to the Tax and Superannuation Laws Amendment (2015 Measures No. 5) Bill 2015 explains that the ATO works closely with the States and Territories on reporting for real property transfers and anticipated varying the reporting period to facilitate more frequent reporting. More frequent reporting improves the timeliness and accuracy of compliance

activities and prefill data. The 2016 Instrument varied the reporting period for States and Territories from a financial year to quarterly.

### Effect of the Instrument

10. Under section 6, States or Territories must prepare a report in accordance with paragraph 396-55(a) in Schedule 1 to the Act setting out information regarding all transfers of freehold or leasehold interests in real property that occur in that State or Territory during each period of 3 months ending on 30 September, 31 December, 31 March and 30 June.

### Compliance cost assessment

11. To be advised.

### Consultation

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

13. 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.

<b>Due date:</b>	5 June 2026
<b>Contact officer:</b>	Heather Forrester
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## **Statement of compatibility with human rights**

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

### **Taxation Administration (Change of Reporting Period for Third Party Reports on Real Property Transfers) Legislative Instrument 2026**

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**

States and Territories are required to prepare reports to be provided to the Commissioner setting out information about transfers of freehold or leasehold interests in real property situated in the State or Territory. This instrument requires the State or Territory to prepare these reports in relation to transfers that occur during a quarterly reporting period, rather than an annual reporting period as provided for under the enabling legislation.

The Legislative Instrument specifies the reporting period for States and Territories to provide information on real property transfers, which may give rise to an income tax liability, for example, a net capital gains tax liability. The instrument maintains the existing 'quarterly' reporting period.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it requires States or Territories to prepare reports in relation to transfers that happen during a quarterly period, which is the same period as the instrument being repealed.

#### **Conclusion**

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