Explanatory Statement

CHANGE OF THE REPORTING PERIOD FOR THIRD PARTY REPORTS ON REAL PROPERTY TRANSFERS DETERMINATION 2016

General Outline of Instrument

1. This instrument is made under subparagraph 396-55(a)(ii) of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953).
2. This instrument changes the reporting period for reports to be given by third parties under table item 3 to section 396-55 of Schedule 1 to the TAA 1953.
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. The instrument commences on 1 July 2016.

What is this instrument about

6. The purpose of this instrument is to change the reporting period for reports required to be given by States and Territories in relation to table item 3 in section 396-55 of Schedule 1 to the TAA 1953.

What is the effect of this instrument

7. This instrument changes the default reporting period for reports required to be given by entities in relation to table item 3 in section 396-55 of Schedule 1 to the TAA 1953.
8. This instrument changes the reporting period from 'financial year' to 'quarterly' periods. Entities must provide a report in the approved form 31 days after

each period of 3 months ending on 30 September, 31 December, 31 March and 30 June.

9. Compliance Cost Impact: Minor – There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

10. The Explanatory Memorandum to the *Tax and Superannuation Laws Amendment (2015 Measures No.5) Bill 2015* explains that the regime provides a default reporting period of a financial year, so each entity is required to report to the Commissioner of Taxation (Commissioner) on an annual basis in regards to any transactions that have occurred in the previous financial year.
11. Subparagraph 396-55(a)(ii) of Schedule 1 to the TAA 1953 allows the Commissioner to change the reporting period by legislative instrument to another period.
12. This instrument changes the reporting period for third party reports on real property from 'financial year' to 'quarterly' periods.

Consultation

The Australian Taxation Office (ATO) opened its legislative instruments consultation period on the 15 December 2015 and concluded on 15 February 2016. The public was invited to provide feedback during the consultation period. Stakeholders consulted include the State and Territory Revenue and Titles Offices in each jurisdiction, the Law Council of Australia, the Australian Institute of Conveyancers and the Electronic Conveyancing Group. Extensive consultation undertaken with key stakeholders during the initial development of Subdivision 396-B in Schedule 1 to the TAA 1953 has resulted in no feedback or material concerns being raised with the ATO, during the Legislative Instrument consultation period.

Greg Williams
Deputy Commissioner of Taxation
dd April 2016

Legislative references:

Taxation Administration Act 1953
Tax and Superannuation Laws Amendment (2015 Measures No.5) Act 2015
Human Rights (Parliamentary Scrutiny) Act 2011
Legislation Act 2003

Statement of Compatibility with Human Rights

This Statement is 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 Legislative Instrument varies 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 changes the reporting period from 'financial year' to 'quarterly' period.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms. It varies reporting periods which is considered to be minor in nature.

Conclusion

This legislative Instrument does not raise any human rights issues.