

Questions taken on Notice – 3 July 2020

Please find below the joint response from CA ANZ and CPA Australia regarding how the legislation could be amended. We are not legislative drafters, so these suggestions are just that, suggestions.

The following change would remove the need for a payment times small business identification tool and replace it with an expenditure threshold that will not need identification of a particular small business.

- Section 5 – definition of **small business** – delete “means an entity prescribed by the rules” and replace with **“an entity that invoiced less than \$7M per annum in the previous financial year to the reporting entity.”**

The following changes will ensure that this register will not be creating new definitions that combine tax and corporations law concepts. Rather corporations law concepts are to be adopted so that there is not a plethora of new definitions and so that the payment times register can be integrated more easily into the modernisation of business registers down the track.

- Section 5 – definition of **Australia** – delete “Income Tax Assessment Act 1997” and replace with “Corporations Act 2001”
- Section 5 – definition of **entity** – delete “Income Tax Assessment Act 1997” and replace with “Corporations Act 2001”
- Section 5 – definition of **income year** – be replaced with a definition of financial year as defined by section 323D of the Corporations Act 2001. **Ideally this would change from income year to financial year in the definition section and throughout the act.**
- Section 5 – definition of **income tax** – delete as it is no longer relevant if the above change is made.
- Section 7 – definition of **total income** – delete “has the same meaning as in section 3C of the Taxation Administration Act 1953” and replace with “has the same meaning of consolidated revenue that is calculated in accordance with accounting standards in force at the relevant time (even if the standard does not otherwise apply to the financial year of some or all of the companies concerned). The meaning of each of these words in the same as that used in the Corporations Law.” This is wording is based on that used in section 45A(6) of the Corporations Law. **Ideally this would change from total income to consolidated revenue in the definition section and throughout the act.**

In addition, the references to the Income Tax Assessment Act would be replaced with equivalent Corporations Law concepts for the section 5 definitions of foreign entity and enterprises as well.