

Via email: [blackeconomy@treasury.gov.au](mailto:blackeconomy@treasury.gov.au)

Attention:  
The Black Economy Taskforce Secretariat  
[blackeconomy@treasury.gov.au](mailto:blackeconomy@treasury.gov.au)

16 August 2017

## BLACK ECONOMY TASKFORCE CONSULTATION

Dear Sir/Madam,

BDO welcomes the opportunity to provide feedback in response to the public discussion about the black economy including the:

- The Black Economy Taskforce recommendations that have been accepted and will be implemented by the Government (as announced in the 2017/18 Federal Budget)
- The Black Economy Taskforce Interim Report dated March 2017 (Interim Report)
- The Black Economy Taskforce Consultation Paper dated August 2017 (Consultation Paper)

BDO recognises that the black economy erodes the Australian tax system and support the need for a broad range of measures to successfully deal with the black economy.

We have extracted key recommendations from the Interim Report and Consultation Paper below and provided our comments on each of the recommendations.

Should you wish to discuss any of our comments, please feel free to contact me on +61 2 9240 9736, or via email: [Lance.Cunningham@bdo.com.au](mailto:Lance.Cunningham@bdo.com.au).

Kind regards,



Lance Cunningham  
BDO National Tax Director

### Black Economy Taskforce Recommendations accepted to date

Recommendations accepted to date	BDO view
Extension of Taxable Payment Reporting System to the courier and cleaning sectors (initial recommendation 3)	With almost 17% of Australia's workforce now independent contractors, BDO support the Government seeking to extend the Taxable Payment Reporting system (TPRS) to two new high-risk industries - cleaning and couriers - from 1 July 2018 but note the additional compliance burden on taxpayers will have to be managed. We also note that overseas experience indicates that withholding systems are more effective than reporting regimes in improving compliance in cash industries.
Ban on sales suppression technology (initial recommendation 5).	BDO supports the introduction of legislation being developed that bans manufacture, distribution, possession, use or sale, of suppression technology.
Funding for ATO audit and compliance activities (initial recommendation 8).	BDO is pleased that the Government will provide \$32 million for one year of additional funding for ATO audit and compliance programs and suggest these target non-lodgement, omission of income and non-payment of employer obligations especially.

### The Black Economy Taskforce Interim Report - March 2017 (Interim Report)

Interim Recommendations	BDO View
Access to Government procurement opportunities being limited to firms with a good tax record (and who do not engage in bribery and corruption) with successful bidders having to ensure their sub-contractors meet the same standards (policy recommendation 1).	BDO has qualified support for this recommendation but advocates for clear guidance on how "a good tax record" is assessed. Taxpayers who are in a genuine dispute with the ATO should not be restricted from access to Government procurement opportunities. It is also important that such taxpayers should not be discouraged from disputing their tax assessments in fear of being excluded from Government procurement opportunities. Clear criteria should also be set and applied in respect to firms pursuing these opportunities. The reference to good tax record could be limited to failure to lodge documents. Outstanding amounts owing to the ATO where those outstanding amounts are subject to a payment arrangement should not impact on a taxpayer maintaining a good tax record.
Tax and other incentives being available to small businesses who adopt and invest in noncash business models (policy recommendation 2).	BDO can see the rationale for giving incentives for businesses to operate a non-cash business model. However, we are concerned that if these incentives are in the form of tax reductions as this could be seen as discriminating against taxpayers who are not in a position to completely exclude cash receipts. Current trends in society, particularly in the younger generation see a greater use of non-cash payment methods, particularly with debit cards. Many businesses are required to have cash sales for commercial reasons. Well run businesses that receive cash sales will have strict controls on the accounting of those sales to minimise the risk of theft of that cash by employees.

	<p>It is arguable that a tax incentive for a business to not have cash sales could encourage businesses to not report cash sales; that is the tax incentive could be counterproductive. Instead the ATO should be considering the accounting and internal control systems that the business has for accounting for all sales (such as a point of sale system). This measure will penalise ordinary businesses that comply with the law. Those who seek to defraud the revenue authorities by not reporting sales will use many means, not just cash sales. Therefore, we recommend that if there are to be incentives they not be tax incentives. BDO would be interested in discussing what “other incentives” are being considered.</p> <p>An alternate incentive could be to allow individuals an income tax deduction for account transaction fees on accounts with debit cards attached, thereby incentivising the use of the debit cards by the consumer. This deduction may have an annual limit.</p>
<p>Non deductibility for cash wages businesses which have not made or reported PAYG withholding payments, issued payment summaries and have made superannuation contributions (policy recommendation 4).</p>	<p>BDO support the proposal to deny deductions in circumstances where there is a failure to comply with the PAYG and ABN laws.</p> <p>A business should not be denied an income tax deduction for cash wages paid because superannuation contributions were not paid on time.</p>
<p>An ABN registration process that replaces over 250 business related registers currently in place that provides a real time, efficient and secure resource that allows governments, businesses and the public to confirm the identity of the firm they are dealing with (policy recommendation 6).</p>	<p>BDO supports any improvements that lead to better information sharing between agencies provided it does not place too great a compliance burden on businesses and agents responsible for ensuring reporting requirements are satisfied.</p>
<p>Creation of a 'one stop shop' across all federal agencies and different levels of government for businesses regulatory compliance activities (policy recommendation 9).</p>	<p>BDO support this recommendation and advocate for it to be extended to the harmonisation of definitions and other legislative issues facing businesses that deal across jurisdictions.</p>
<p>Enforcement of an economy wide cash payment limit (\$10,000 is a possible option) with cash payments above that limit being illegal (policy recommendation 10).</p>	<p>The Interim Report states that a number of overseas countries have implemented measures to impose cash payment limits. BDO believe it would be beneficial to have the quantifiable benefits of this analysed and released and worthwhile investigating the extent to which overseas experiences have reduced the black economy before implementing it in Australia.</p>
<p>Sharing economy operators (both onshore &amp; offshore) being subjected to the same obligations to provide data to regulators as other operators through expansion of the TPRS and offshore operators obliged to report to the ATO (policy recommendation 11).</p>	<p>Whilst the idea of a reporting regime for these activities has merit BDO note that it should be equally enforced for both onshore and offshore participants and that any form of data matching be subjected to privacy protections for taxpayers.</p>
<p>A bright line test for hobby business income distribution through creation of a threshold below which any income would be deemed to be hobby related and not taxable and any income above the threshold business related, to simplify the law, lower compliance burdens and reduce uncertainty for taxpayers (policy recommendation 12).</p>	<p>BDO supports the concept of having simple rules to distinguish hobbies and income producing activities. However, we note that a key issue is that reward for effort is not necessarily always commensurate with reasonable commercial expectations. We also recommend that if such a concept is introduced it be done in conjunction with a review of the non-commercial loss provisions with an aim to simplify and rationalise those rules.</p>

Changes to the current GST threshold (\$75,000) which may be too high, noting that any change must be agreed by the States and Territories (policy recommendation 13).	BDO considers the current GST registration threshold should not be reduced. There is no indication that a lower registration threshold will reduce the black economy. The fact that a business is registered for GST does not guarantee compliance. Alternatively, if it could be identified that a lower registration threshold could assist compliance in a particular industry it could be considered to apply the lower or nil threshold for that industry in a similar way as currently applies for the taxi industry, provided a rigorous cost benefit analysis was undertaken to identify there would be an overall benefit.
Entities and trusts being obliged to disclose legal and controlling owners at the request of the authorities, which will also apply to their counterparties with failure to do so resulting in adverse legal consequences (policy recommendation 18).	BDO supports this recommendation provided there is a structure in place that takes into account the special needs for trusts that support children or vulnerable people. We also note that the UK Government successfully implemented a company ownership register to name controlling trust beneficiaries.
Support for non-cash payment methods i.e. new payments platform and lower payment card fees (policy recommendation 19).	BDO supports this recommendation and we consider that it is imperative that the cost of non-cash payments would have to be reduced to a negligible cost per transaction if a cashless payment system was introduced.
Relief for small businesses that are subject to extended payment terms for receipt of their income as they cause cash flow problems, forcing some into the black economy (policy recommendation 20).	BDO support this recommendation.
Mitigating the impact of strategies to counter the black economy on particularly vulnerable groups including women seeking to re-enter the labour force (policy recommendation 31).	BDO support this recommendation and recommend that the vulnerable groups that the Government seeks to protect represent a cross section of Australia's diverse society. We are aware that there are many people are caught in the black economy by circumstances beyond their control and it is important that these people are not punished for being in this situation but rather be helped to extricate themselves from it.
Increased used of biometrics (genetic identifiers) to reduce black economy participation along with a broader look at the issue of digital identities (policy recommendation 33).	BDO has some privacy concerns with the use of biometric data for everyday transactions. There may be good reasons to use such measure for high risk situations where terrorism and other serious criminal activities could be involved but not for everyday commercial and personal activities.

### The Black Economy Taskforce Consultation Paper - August 2017 (Consultation Paper)

Additional Consultation Points	BDO View
A series of Australian Business Number (ABN) reforms including the proposal to rename the ABN as the ABL (Australian Business Licence), which would issue new business owners with a provisional licence with a requirement to undertake a simple business course within 6 months in order to get a full ABL; there would be a 'fit and proper person' test in order to receive an ABN/ABL and businesses would be required	BDO support the Government's proposed series of reforms to the ABN and note that a consultation paper has been released by the Government on modernising business registers to make business simpler. BDO support a modern approach to business registration will improve registry services, reduce complexity for business and enable better access to registry data in line with the Government's open data policy to facilitate greater use and innovation.

<p>to display their ABN/ABL (additional recommendations 3 to 5)</p>	<p>The ABN is currently required to be disclosed on all business documentation, as well as tax invoice requirements. Any change to the terminology will require a long lead time as the letters ABN are embedded in software producing tax invoices, printed materials, letterheads, booklets and brochures where under the ABN legislation will treat the documents as business related. ABNs are required for non-business activities such as commercial property rentals.</p>
<p>A new class of strict liability offences. Currently there is a large gap between the are minimal offences for things like making false or misleading statements and the very serious offences like fraud. There is a recommendation to introduce some mid-range strict liability violations with graduated offences depending on the nature of the offence (additional recommendation 8).</p>	<p>BDO supports this recommendation provided there are appropriate review mechanisms.</p>
<p>Specialist tax tribunals to increase the potential for more prosecutions (additional recommendation 9)</p>	<p>BDO notes that prosecution acts as a deterrent but only if it is publicised widely to influence behaviours beyond the persons convicted.</p>
<p>Naming and shaming of known tax offenders (additional recommendation 19)</p>	<p>BDO would only support this if it was only implemented for the more egregious tax offences and not applied to anyone who lost a tax case against the ATO.</p>
<p>Discontinue the \$100 note - It is apparent that the use of \$100 notes is rife in the black economy and criminals and therefore it is proposed to discontinue the \$100 note to discourage such activities (additional recommendation 25)</p>	<p>BDO is concerned that if the \$100 note was discontinued the black economy and criminal sectors would just start using \$50 notes in the same way and therefore it would not discourage the black economy or criminals. Removal of the \$100 note will also penalise those who genuinely need to transfer funds with immediate clearance at the bank. In addition, the effect of inflation over time will result in the issue of \$100 notes in ATMs. BDO note that India implemented similar changes earlier this year and that limits on withdrawing cash from banks and ATMs ended four months after they were imposed following the demonetisation of old Rs 500 and Rs 1,000 notes, which created a currency shortage across the country.</p>
<p>Setting a floor under the tax businesses pay and/or an alternative minimum tax for high-risk sectors (additional recommendation 38)</p>	<p>BDO do not support subjecting high risk businesses to 'rule of thumb' tax assessments that set a floor under the tax they pay or a minimum tax for high risk sectors. This type of measure will penalise those who comply with the tax system</p>
<p>Requiring non cash payment of wages (additional recommendation 24)</p>	<p>BDO do not believe this is a realistic proposal. Incidences of cash payment of wages continue to decline due to the higher administrative costs associated with handling cash.</p>