



7 March 2025

Director
Governance and Integrity Policy Unit
Law Division
The Treasury

via email: taxsecrecyreview@treasury.gov.au

Dear Sir/Madam,

Treasury review of tax regulator secrecy exceptions

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to comment on Treasury's Review of Tax Regulator Secrecy Exceptions consultation.

The consultation paper proposes a wide range of additional exceptions to the general prohibition on sharing taxpayer information. The infrastructure for managing the protection of information is an important set of protections for personal information and rights and any proposal to widen the gateways in division 355 of the Taxation Administration Act 1953 needs to be carefully balanced against the importance of protecting personal privacy. As the consultation paper notes, taxpayer confidence in the protection of their right to privacy is critical to supporting voluntary engagement with Australia's tax and superannuation systems.

The ASBFEO supports the proposals that would benefit consumers, and small businesses, including the sharing of contact information within myGov, Australian Business Register (ABR) disclosures, and consumer consent proposals. These proposals, if implemented appropriately, would reduce the administrative burden on small businesses when dealing with government. The proposed exceptions should be voluntary, opt-in mechanisms and that consumers and small businesses should have the ability to opt out or withdraw their consent to share their information at any stage.

We strongly support the proposal in part 4.3 to remove the Tax Administration Act's limitation on consent as a means for disclosure of protected information. Such a step would then enable other proposed exemptions to be consent-specific, thereby reducing the risk of data and privacy breaches.

Recommendation 1: The ATO should be permitted to disclose protected information about changes to contact details on myGov with other government agencies linked to that user's account, provided that the taxpayer has given and maintained their explicit consent.

The ASBFEO supports the proposal that the ATO should be permitted to disclose contact information with other agencies. However as noted above, this should be an opt-in mechanism rather than an automatic process. The taxpayer or small business should be able to voluntarily share the information because they see a benefit in it for them. We support the sharing of contact details between government agencies to reduce repetitive information provision requirements on consumers and SMEs. Further, and crucially, the taxpayer should have the ability to withdraw consent at any time.

We suggest the proposed change be part of a broader 'Tell us once' project across the Commonwealth, through the creation of a secure digital platform for consumers to enable unified



service delivery. We note the enactment of the *Digital ID Act 2024*, which strengthens privacy safeguards for people who create and use Digital IDs. In light of this existing approach, the Australian Government should consider whether the ATO disclosure proposal might sit better within the Government's Data and Digital strategy.

Similarly, we note that the Department of Finance is developing a Supplier Portal to simplify and expand participation in Commonwealth procurement by business suppliers, including for small businesses. The Supplier Portal will:

- allow suppliers to maintain their own information, and so remain active and visible on panels
- identify key characteristics of supplier business, such as whether it is an SME, a First Nations business or a women-led business
- empower suppliers to update information once and store commonly used documents, rather than having to contact many entities to provide the same information repeatedly.¹

Finance is also establishing a Contractor Reporting, Integrity Information Solution, which is a web-based platform that will (among other things) provide contractors with a single verified profile, secure platform and feature to establish supplier relationships.²

Recommendation 2: The ATO should be permitted to disclose protected information for the purposes of showing whether a business is small, medium or large on the Australian Business Register, to improve payment times compliance and expand procurement opportunities.

The ASBFEO supports the proposal to permit the ATO to disclose the size of a business – not details about the aggregated annual turnover – on the Australian Business Register to show whether it is small, medium or large. As the consultation paper notes, the absence of a central and comprehensive government source of business size information means that entities must rely on proxy tools to administer programs and measures.

The consultation paper gives the Small Business Identification Tool as an example. This tool identifies small businesses by removing large and medium-sized businesses (as well as small businesses who have opted out) from a database of Australian Business Numbers. Further, the Small Business Identification Tool is not publicly available and cannot be used for any purpose other than reporting under the Payment Times Reporting Act.

In our Procurement Inquiry's report recommended that: Kathll

The Australian Government should consider if the Small Business Identification (SBI) Tool, as used by the Payment Times Reporting Scheme (PTRS), can be adapted for use by officials to easily identify SMEs when using Exemption 17 of the CPRs [Commonwealth Procurement Rules] or for a coordinated procurement.³

¹ Australian Government, *Introducing GovPanels / Supplier Portal*, austender Help, access gained 6 March 2025

² Australian Government, *Contractor Reporting, Integrity Information Solution*, AusTender Help, access gained 6 March 2025

³ Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Procurement Inquiry Final Report*, ASBFEO. Australian Government, December 2023, p 48.

Permitting the ATO to disclose the size of a business on the Australian Business Register would both:

- strengthen compliance under Payment Times Reporting Scheme and enhance the Small Business Identification Tool
- expand procurement opportunities for small businesses.

Disputes over payments are the most common type of dispute requiring ASBFEO's active case management. Too often, these involve large businesses failing to pay small businesses on time. To date, the Payment Times Reporting Scheme has not led to a significant improvement in payment times by large businesses to their small business suppliers; and we welcome any initiative that would assist monitoring and drive better compliance.

In addition, the ASBFEO considers that permitting the ATO to disclose the size of a business on the Australian Business Register could help the Department of Finance develop and refine the Supplier Portal and the Contractor Reporting, Integrity Information Solution.

This approach would help address the ASBFEO's ongoing concern that it can be difficult for officials to easily identify a potential supplier as an SME. Survey work undertaken by the Social Research Centre to inform the ASBFEO Procurement Inquiry found that both senior officials and operational staff highlighted the difficulty in identifying what qualifies a supplier as an SME, and thereby meeting mandatory targets. In fact, 78% of operational staff cited difficulty of identification as the most common barrier to them approaching or using an SME.⁴

Recommendation 3: The Australian Government should amend the Taxation Administration Act 1953's limitation on consent as a means for disclosure of protected information.

The ASBFEO supports the proposal in 4.3 of the consultation paper to amend the TAA to enable taxpayers, including small businesses, to consent to have their details shared with third parties. Small businesses are time-poor and overburdened with red tape and regulatory obligations. Enabling them to consent to have their data shared with third parties would cut down on time spent uploading documentation or completing complex forms. The proposal paper suggests one possible pathway to achieve the proposed outcome would be to leverage the Consumer Data Right (CDR).

The Consumer Data Right Strategic Review of July 2024 found that customer engagement with the CDR is low. We have heard from stakeholders that factors contributing to the low participation rate among small businesses could include a limited awareness and understanding of the Consumer Data Right and its potential benefits for business operations.

In our submission to Treasury's Consumer Data Right Rules consent and operational enhancement amendments consultation, we recommended the Australian Government should explore options, in collaboration with industry bodies that represent small businesses, on the most effective method for increasing awareness and understanding of the Consumer Data Right framework

⁴ Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Review of the implementation of the 1 July 2022 changes to the Commonwealth Procurement Rules*, ASBFEO, 15 December 2023 p 2



among small and family businesses.⁵⁶ We recommend the government undertake similar collaboration should the consumer consent proposal be progressed. This would ensure small businesses can take advantage of data sharing schemes while being aware they can opt out at any stage.

We note proposal 4.2 which asks whether the ATO should be permitted to share taxpayer information with financial advisers. In our view, this would be unnecessary should the consumer consent proposal be progressed as a financial adviser constitutes a third party. Consistent with our position that any proposed exemption be consent-dependant, we encourage Treasury to assign priority to proposal 4.3 over 4.2.

Recommendation 4: The government should make appropriate changes to tax secrecy to address situations of domestic and family violence or economic abuse, while ensuring that changes are carefully calibrated.

In our cases, we have seen indicators of economic abuse where there may be attempts to control a partner before, during or after separation through the conduct of the affairs of a small business. For example, this may include a person being made a director or guarantor of a business without their knowledge and consent, and also result in liability for business tax debts without access to records and information to dispute those debts. We strongly support assistance for such people to protect both their safety and their individual rights. However, this assistance would need to be done in a way that does not allow abusive partners or ex-partners to leverage flexibility to further abuse.

If you require any further information, or have any questions regarding our submission, please contact the ASBFEO Policy and Advocacy team via email at advocacy@asbfeo.gov.au

Yours sincerely

The Hon Bruce Billson

Australian Small Business and Family Enterprise Ombudsman

⁵ Accenture, Consumer Data Right Strategic Review, July 2024, p 3

⁶ ASBFEO, *ASBFEO submission to Treasury's Consumer Data Right Rules consent and operational enhancement amendments consultation*, ASBFEO, Australian Government, September 2024, p 1