

Increasing the integrity of the Commonwealth procurement process

Submission to the Treasury
May 31, 2018

Satisfactory tax record

The Australian Chamber of Commerce and Industry (Australian Chamber) welcomes the opportunity to respond to the Treasury's consultation on the development of a Procurement Connected Policy (PCP).

The Australian Chamber commends the government's objective to take the lead in best practice for procurement of goods and services. It is important that businesses have confidence in the integrity of the regulatory systems that support commercial transactions, particularly when taxpayers' money is used to fund these commercial transactions. However, the Australian Chamber does have some concerns around the mechanisms underpinning the proposed Statement of Tax Record.

The Australian Chamber echoes our response to the Interim Report of the Black Economy Taskforce – caution is needed when determining the definition of a 'satisfactory tax record'. For example, the Australian Chamber is particularly concerned, and cautions against, a taxpayer's contested debt with the ATO being reflected negatively in their Statement of Tax Record.

Government procurement contracts should not be used as a means to coerce payment (explicitly or implicitly), or discourage business from, contesting a tax debt with the ATO.

Additionally, any declarations (made under amnesty or similar) to the ATO in good faith must not form part of the Statement of Tax Record. The provision of these declarations or information to the ATO is often done on the assumption of confidentiality - and the protection of privacy and reputation is paramount.

It is also important to ensure that the Statement of Tax Record provides no identifiable information about a taxpayer. It should simply state whether the taxpayer has a 'satisfactory' tax record or not. The provision of further information undermines the secrecy provisions enshrined within tax laws.

Process for obtaining statements from the ATO

The Australian Chamber supports the development of an online system that will streamline the provision of the Statement of Tax Record for businesses. There is no need for additional regulatory and administrative burdens to be placed on businesses, particularly as there are already significant hurdles required as part the current procurement process.

The Australian Chamber encourages transparency by the ATO in the provision of the Statement of Tax Record. In the instance where a business is deemed not to have a satisfactory tax record, the ATO should be compelled by the appropriate legislation to explain its decision in detail to the business.

Where there may be difficulties for a business in obtaining a Statement of Tax Record within a 'short time frame', the ATO should be transparent about the reasons behind the delay and options of recourse if this negatively impacts the business in bidding for work as part of the wider procurement supply chain. It would be appropriate to consider what monetary penalties should apply against the ATO in the instance of delay.

Where a business disagrees with the ATO's Statement of tax Record, appropriate dispute resolution procedures must be put in place. Where the ATO is found to have erred, financial penalties against the ATO should apply.

The Australian Chamber also encourages the ATO to provide businesses with clear actions that would rectify 'unsatisfactory' tax records. This could be useful in encouraging compliance for particular businesses, and an avenue for the business to pursue in order to be ready for future tendering processes.

The Australian Chamber seeks clarification on the process for international companies that may tender as part of a procurement process, but the ATO may not have the required information to issue a Statement of Tax Record. It is important that Australian businesses are not hindered by domestic regulations when bidding for domestic procurement contracts if international businesses may not be subject to the same stringent requirements.



About the Australian Chamber

The Australian Chamber of Commerce and Industry speaks on behalf of Australian Businesses at home and abroad.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, making us Australia's most representative business organisation.

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