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**Taxation and Tax Reporting:**

**Optimisation versus Maximisation**

***Self Employed Australia* submission:**

**In response to the Australian Government Treasury *Sharing Economy Reporting Regime* document**

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***Submission prepared by:***

**Professor Peter Murphy**

**President, Self Employed Australia**

<https://www.selfemployedaustralia.com.au/>

**Peter Murphy** is Adjunct Professor of Humanities and Social Sciences at La Trobe University and Adjunct Professor in the Cairns Institute at James Cook University. He is the author of *Limited Government: The Public Sector in the Auto-Industrial Age* (2019), *Auto-Industrialism* (2017) and *Universities and Innovation Economies* (2015). Email: [peter.murphy.australia@gmail.com](mailto:peter.murphy.australia@gmail.com) Phone: 0401 007463

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**1. SUMMARY OF THE SUBMISSION**

Automated reporting of platform income and the semi-automated populating of tax returns add to business and taxpayer record-keeping efficiency. The Treasury recommendations concerning taxpayer education and taxpayer entrepreneurship however are deeply inadequate. They reflect a one-dimensional view of the purposes of taxation and tax reporting.

**2. Record keeping**

An issue for solo traders, micro-businesses and small businesses is the accurate and consistent keeping of tax-related records. Platform-mediated employment is part of a much wider phenomenon affecting the nature of income. For many taxpayers, income sources over time have tended to multiply. Included in this group with multiple sources of income are those who are engaged variously in irregular or intermittent task-work on digital platforms, in regular task-work on multiple platforms, or in a mix of full-time employment independent of platforms and part-time online-mediated employment, or a mix of different kinds of part-time employment both on and off platforms. In all cases record-keeping is a challenge.

Keeping an accurate record of income derived from multiple sources can be difficult even with the best will in the world. Automated reporting to the Australian Tax Office (ATO) by digital platforms of income earned by platform participants will improve the record keeping for solo, micro and small businesses, and the independent workforce as a whole. Automated records will properly move the burden of reporting accuracy and reporting compliance from taxpayers to the government and the digital platforms. This is likely to reduce the struggle of taxpayers who lack large institutional means to track minor and/or multiple income streams.

**3. Tax return efficiency**

The second advantage of the proposed scheme is pre-population of tax returns with the income data that is reported by digital platforms to the Australian Tax Office. This is a likely time-reducing measure and an efficient way of handling the creation of tax returns by partial automation of the returns. This should reduce the time wasted by those solo, micro and small-business taxpayers who to date have had to manually in-put or manually list data about multiple small-income streams. This procedure is doubly inefficient if the value of the time spent inputting data or listing data for others to input exceeds the value of the income streams being reported.

**4. Risks as well as advantages**

Techniques for automating or semi-automating legally-required reporting of income is an appropriate efficiency. That said, neither the tax system nor tax reporting are simply or exclusively neutral techniques. Rather these techniques are embedded in a series of assumptions that the Treasury and the Australian Tax Office currently make about the purpose of the tax system. These assumptions point to a number of risks of the proposed reporting system in addition to its evident advantages.

**5. Tax optimization and tax maximization**

We have had a succession of reports leading to Treasury’s *Sharing Economy Reporting Regime* document including the Board of Taxation, *Tax and the Sharing Economy: A Report to the Government*, Commonwealth of Australia, 2017, the *Black Economy Taskforce Final Report* October 2017 and *Designing a modern Australian* *Business Number system consultation paper* July 2018.

These documents share a common assumption. Namely the purpose of the taxation system is to collect revenue—and that this is the sole or over-riding purpose of the taxation system. That revenue collection is an important purpose of the tax system is not at issue. Collection is implied in the very idea of taxation. However contemporary tax collection extracts such a large percentage of income and wealth from the economy that the function of tax, whether exclusively or in the main, is not and cannot just be collection.

Taxation by virtue of its size and weight creates economic incentives and disincentives. The purpose of a taxation system in addition to collection is to create sensible incentives and avoid harmful disincentives.

The recent multiple reports from the Australian government lean heavily and excessively in the direction of revenue collection. To the point where the focus of these reports is tax collection maximization rather than taxation optimization.

Where tax collection optimization applies other non-collection purposes are given due and reasonable weight in the construction of the tax system. Tax collection maximization as an approach in contrast fails to give due consideration to competing goals of the tax system.

**6. Risks of a mono-dimensional tax system**

Tax offices and governments have a strong vested interested in collecting as much revenue as possible. But such a mono-dimensional measure of performance can back-fire on the broader economic system. Maximizing revenue collection risks undermining other legitimate economic and social purposes of the tax system.

There are two such risks related to the Treasury’s proposed reporting regime and the underlying assumptions of the series of reports that fed into the proposal.

The risks are:

a. *Education (mutual obligation) failure*

b. *Entrepreneurial obligation failure*

**7. Education (mutual obligation) failure**

A theme of Treasury’s *Sharing Economy Reporting Regime* document is that efforts should be made to ‘raise users’ awareness about potential tax obligations from participation in sharing economy activities’.

The report goes on to make ‘observations’ in the manner of European-style indicative planning guidance and old French-style *dirigisme*. The use of the term ‘observation’ is an attempt to create an atmosphere where economic and organizational behavior is somehow directed but without any explicit commands, instructions or laws. This is a ghost of a past that is best laid to rest. Whether it be an ‘indication’ or an ‘observation’, this is not a legitimate or appropriate role for the Australian government or Treasury to engage in.

The primary medium for Treasury’s ‘indications’ is education. By that Treasury means two things.

*Firstly*, the indicative ‘observation’ that platforms organize tax information sessions and provide ‘discounted tax services’. The ‘observation’ is both a description and an implied norm. What it ‘suggests’ is outsourcing government responsibility to private parties, in this case digital platforms, by making an ‘observation’ that platforms in tax collection act as a tacit or implied extension of government.

*Secondly*, Treasury ‘observes’ the Australian Tax Office (ATO)’s ‘public campaigning’ to provide information to encourage taxpayer ‘compliance with obligations’. It is a legitimate and responsible role of government to provide clear and readily-accessible information about the obligations of taxpayers. The Treasury seems to think that the ATO already does this via its web pages. In addition it ‘indicates’ that platforms ‘refer sellers to the ATO’s website to assist sellers to understand their tax obligations’. Treasury avoids stating whether this is something that platforms ‘do’ or alternatively ‘should do’. Treasury’s description is also intended to function as a norm—an evasive way of de facto legislating its wishes yet outside the realm of law.

What the Treasury paper, and the various reports that have preceded it, do not talk about is the reciprocal obligation of the government and the ATO to make taxpayers aware of the provisions of Australian tax law not just for the payment of tax but also its provisions for tax deductions and exemptions. Just as important as the obligation to pay is the taxpayer reciprocal entitlement to exemptions and deductions.

The philosophy of tax maximization tends to screen out countervailing objectives of the tax system. The focus is entirely or predominately on tax collection. Tax collection is a perfectly legitimate objective of government but it is not the only important goal of the tax system. It is key that tax payers not only understand their payment obligations but also their entitlements to exemptions and deductions.

By creating exemptions and deductions the law creates a flexible tax system that accommodates a variety of social and economic goals. In the case of deduction, the tax law recognizes that income that is taxed also entails costs to generate, and such costs offset taxable income. As many persons in the platform economy are transitioning from systems where costs are borne by employing organizations to a situation where they as an independent worker or owner-operator are responsible for their own costs, it is incumbent on the ATO to extensively educate these taxpayers in their exemption and deduction entitlements.

Such education can be folded into the proposed reporting regime. Presumably, platform taxpayers will have to sign a tax office tax-reporting document and they will also have access to an ATO web-based listing of their platform income as it is generated. In both cases, it would be appropriate to include words to the effect that ‘Your tax obligation may be offset by tax deductions. Consult your tax advisor and the tax information at [ATO web page].’

The ATO should make a habit whenever stating tax payment obligations to educate the taxpayer about exemption and deduction entitlements. Tax obligations are mutual. Taxpayers have obligations to the tax office. The tax office has obligations to the taxpayer. They need at each step in the tax process to go hand in hand, and be seen to go hand in hand.

**8. Entrepreneurial obligation failure**

The Treasury’s *Sharing Economy Reporting Regime* document states that ‘Effective tax systems are generally underpinned by a reporting regime which captures, efficiently and seamlessly, all taxable economic activities. Reporting should not stifle economic activity and entrepreneurship. Rather, it has the potential to make it easier for those receiving income from third parties to meet their tax obligations.’

As a generic umbrella statement, that makes sense. But what about when we consider its specific elements more closely?

Digital automated reporting has a value in improving record-keeping for solo, micro and small businesses. That’s a plus. In the case of other key dimensions of ‘economic activity and entrepreneurship’, the plus is not evident.

In the procession of reports and documents up to and including the *Sharing Economy Reporting Regime*, Treasury and other bodies have made a series of motherhood statements about the importance of entrepreneurship and dynamic economic activity. In practice these have proved to be little more than clichés. It is not evident that the Treasury or other government agencies understand how dynamic business or entrepreneurship are encouraged or discouraged by the taxation system.

The reports and documents up to and including the *Sharing Economy Reporting Regime* make obligatory template statements about dynamic business and entrepreneurship. They then quickly move on to the preoccupation of these documents: maximizing revenue collection.

When the reigning philosophy of tax collection is tax revenue optimization, the objective of the tax system is multi-dimensional. It includes more than just the single objective of revenue collection. One key objective in an advanced economy like that of Australia is the capacity of the tax system to encourage dynamic business and entrepreneurship.

So far as the reporting regime is concerned, a major issue is ‘what is reported’. A reporting system is not just a technique of information collection. It also builds in assumptions about what information is collected and the roll-on effects of the information that is collected. One of these effects is the encouraging or discouraging economic activity including experimental business activity.

Part of the platform economy is composed of micro experimental businesses. These are organized by persons who are dipping their toe into the big river of commerce. Many of these experimental businesses won’t work. Some though will work. Those that do work become an important source for the creation of medium-and-long-term new businesses in Australia.

A reporting system can encourage experimental business. It can discourage such business. It depends on how the reporting system is structured. A key way of encouraging experimental businesses is to have a reporting threshold, such as the first $1000-$2000 of trading income per annum does not have to be reported.[[1]](#endnote-1) An exemption of this kind would apply to defined classes of persons engaged in business trading activity (such as solo traders) and would apply irrespective of their total assessable income from all sources.

Reporting is not just a revenue tallying system. It is also a signaling system. It signals to taxpayers what kind of business activity is routine and what kind is exceptional, what kind is subject to rote payment and what kind has a status or significance that is more than rote.

The point of a threshold arrangement is not to maximize tax revenue but to optimize it by including an offsetting tax exemption whose function is to encourage business dynamism and experimentalism. The additional effort entailed by micro-business initiatives—which represent a general economic and social good—is offset by a tax-free threshold. The more persons in Australia trying such activity and experimenting with its possibilities means, in the long run, a better, wealthier, more flexible, more interesting and more dynamic economy. From small things, big things grow.

The Treasury’s *Sharing Economy Reporting Regime* document wishes to close this matter off by saying that ‘income tax exemptions are out of scope of this paper which is intended to deal with reporting’. But what this fails to grasp is that reporting is not a neutral instrument. It builds in assumptions and biases. In this case, the assumptions and biases of the proposed reporting system work against novel, exploratory, tentative and trial business activity, a crucible of long-term economic creation and business energy.

In spite of repeated statements about entrepreneurship in the succession of government reports and documents dealing with the reporting issue, it is evident that neither the government, Treasury or the Tax Office understand entrepreneurial trial-and-discovery business activity. The failure to understand is so repeated and so systemic that a separate comprehensive inquiry into adjusting the Australian tax system to better accommodate and facilitate solo, micro, and small-scale entrepreneurship and business start-up is needed.

**References**

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Board of Taxation, *Tax and the Sharing Economy: A Report to the Government*, Commonwealth of Australia, 2017.

**Notes**

1. The United Kingdom on 6 April 2017 introduced such a trading allowance, exempting £1,000 of gross trading income from taxation. [↑](#endnote-ref-1)