2 July 2020

James Campbell
Director
Banking and Finance, Public Groups and International
Australian Taxation Office

By email: James.Campbell@ato.gov.au
Cc: Nicholas.Maley@ato.gov.au

Dear James

ATO remediation payment data request

I refer you to the Australian Banking Association (**ABA**)/Australian Taxation Office (**ATO**) Income Tax and GST Steering Group meeting on 29 June 2020. At this meeting, representatives from the ATO mentioned that the ATO's Smarter Data team were in discussion with various banks around impending remediation related data requests. To this end, it was noted that the Smarter Data team were discussing the issuance of formal notices to ABA members to provide interest data in respect of remediation payments made during the year ended 30 June 2020.

In the meeting various concerns were raised with the proposed data requests.

Firstly, it was noted that this data collection exercise would be extensive and onerous across multiple remediation projects. Typically, these remediation projects have individual calculation models producing payment data sets that are not integrated into established reporting systems due to the one-off nature of the payments.

In addition, this request has been made by the ATO a few days before the end of the financial year. While the potential for the issue of formal notices has been mentioned at a high level, banks have not implemented processes to allow the collation of such data on an on-going basis pending confirmation of the nature of the notices to be issued. In this light, collation and validation of the data would likely take each impacted bank several weeks to complete, especially given the existing 30 June reporting obligations. This would mean that this interest data would appear in MyTax accounts at a time well into the peak tax return lodgement period (and possibly after many bank customers have lodged tax returns). The ABA is concerned that this may lead to a poor customer (and taxpayer) experience.

The second concern flagged in the meeting was around the ongoing uncertainty in respect of whether certain remediation payments are characterised as interest for tax purposes. Even if certain remediation payments are characterised as interest for tax purposes, it will not necessarily mean that these remediation payments are customers' assessable income. An example is the time value of money payments on over-charged interest on home loans (i.e. for owner-occupied properties) which should not be assessable in the hands of customers. To this end, ABA members are uncomfortable reporting payment amounts to ultimately pre-fill customer tax returns until all uncertain positions are agreed to with the ATO.

For the reasons above, the ABA requests that the ATO not issue notices requesting interest data in relation to remediation payments for the 2020 tax year. Any interest reporting should only commence once the remaining characterisation uncertainty is resolved and with clear reporting timeframes so that ABA members can establish appropriate systems and processes. This would also provide an opportunity for customer communications to be potentially updated on a prospective basis to reflect the ATO's final position on the tax treatment of amounts received. Additionally, it should be highlighted that any such ATO data request will unnecessarily add significant complexities to our members' remediation payment processes and can adversely affect their ability to make remediation payments in a timely manner. This is against the industry's and the Government's priorities and objectives.

The ABA would be happy to meet with the ATO to discuss this letter in more detail. Should you have any questions, please do not hesitate to contact me.

Yours sincerely

Essam Husaini
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Australian Banking Association