

21 January 2020

Mr Steven Kennedy
Secretary
Australian Treasury
Langton Crescent
PARKES ACT 2600

Dear Secretary

2020-2021 PRE-BUDGET SUBMISSION

On behalf of Tax Traders and Tax Management New Zealand, I am pleased to provide this submission to the Australian Government and Treasury for consideration as part of the 2020-2021 Pre-Budget process.

There is a well-established policy challenge facing Australian small businesses (SMEs) relating to access to finance and improving cash flow. This challenge is consistently reiterated by the Prime Minister, Australian Government Ministers and the Tax Commissioner. As a result of this challenge, we recommend consideration be given to making the necessary legislation and system changes required to support the establishment of the private sector-led ReadyTax initiative in Australia.

ReadyTax provides SMEs with a new and proven way to fund their Pay As You Go Instalment payments whilst ensuring the Australian Government continues receiving tax receipts in a timely manner. SMEs can choose when and how they pay their PAYGI payments, providing maximum flexibility over cashflow so they can invest in business growth when and how needed.

This submission outlines how the ReadyTax initiative complements other Government policy proposals that are designed to improve small business access to finance – so they can invest with confidence and generate Australian jobs.

We have included further information to the Australian Government, Treasury and the Australian Tax Office (ATO) on the proposed ReadyTax initiative, including draft indicative amendments to the Tax Administration Act that would facilitate the ReadyTax initiative.

Further, senior representatives of the New Zealand Inland Revenue Department (IRD), who oversee the same policy initiative in New Zealand, would be pleased to provide a briefing to representatives of the Australian Government and Treasury on the success of this solution in New Zealand, including the technical aspects associated with the implementation phase of this initiative.

Tax Management New Zealand (TMNZ) is New Zealand's largest IRD-approved, ReadyTax provider. Founded by Ian Kuperus, who was responsible for pioneering the industry in 2001, TMNZ is trusted by thousands of small and medium-sized businesses as well as some of New Zealand's largest banks, state-owned enterprises and well-known corporate names. TMNZ sets the highest security standards for reliable and secure management of clients' tax payments.

Tax Traders is New Zealand's fastest-growing IRD-approved tax pooling intermediary. It was founded in 2011 by Josh and Nicola Taylor, in partnership with former Deputy Commissioner of Inland Revenue Robin Oliver, and former Deloitte partner Mike Shaw. Tax Traders have transformed conventional approaches in the tax pooling industry with pioneering technology that not only makes tax pooling significantly easier, more transparent, faster and more accessible for all taxpayers, but also readies the industry for future demands through automation. Tax Traders is the trusted partner to major accounting firms and corporates nationwide.

Tax Traders and TMNZ are two prominent ReadyTax providers/intermediaries that have been operating in New Zealand for a combined total of over 20 years. Together they serve over 60,000 clients throughout New Zealand including SMEs, banks, corporates and major accounting firms. They have seen the benefit ReadyTax makes to business confidence and to the economy and are now working to see if a similiar policy can be introduced in Australia to benefit Australian small businesses.

We look forward to working with the Australian Government and the Treasury on this important small business reform that will deliver lasting benefits to the Australian economy.

Yours sincerely

Ian Kuperus
Founder and Director
Tax Management New Zealand

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Co-Founder and Managing Director
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Executive Summary

One of the biggest issues facing Australian small business is access to finance along with managing cashflow.

The funding gap for small businesses seeking capital is a significant barrier to business growth, employment and investment, particularly following the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

The ReadyTax solution is a natural extension of the Australian Government's policy arsenal, to help further support and free up small business to invest with confidence and generate jobs.

The ReadyTax initiative is a *low-cost* financing solution operated by the private sector that provides Australian small and medium-sized businesses with a new source of finance to manage cash flow.

It provides SMEs with a new and proven way to fund their Pay As You Go Instalment payments without needing to incur expensive borrowing costs provided by the Big Four banks and other traditional lenders.¹

And importantly for the ATO, ReadyTax ensures the Australian Government continues receiving tax receipts in a timely manner whilst providing SMEs with flexibility over how and when the timing of those payments impact their cash flow.

The policy challenge of access to finance for Australian small businesses

Small and medium-sized businesses (SMEs) often find it difficult to obtain finance on other than a secured basis, mostly against the family home. Access to additional capital is therefore difficult once all of the real estate has been posted as collateral.

The Chief Executive Officer of the Council of Small Business Organisations Australia (COSBOA), Peter Strong, reiterated that access to finance is a key challenge for Australian small businesses right now.

In COSBOA's 2019 federal election document, 'What Small Business Wants', Mr Strong said:²

"Not all of us want to grow to become a large business but we do want the economy to be stable; and those that do want to grow want access to finance and support when needed."

This is a critical challenge for small business that the Coalition Government has consistently acknowledged and worked hard on developing policies that address it.

The Liberal Party took to the last election a small business policy document – *Our Plan to Back Small Business* - that sought to deal with the abiding challenge head on:³

"We will grow small business by expanding their access to finance."

¹ ReadyTax assists meeting SMEs PAYGI income tax obligations and not salary withholding or GST.

² <https://www.cosboa.org.au/post/2019/05/02/small-business-people-are-voters-too>

³ <https://www.liberal.org.au/our-plan-back-small-business>

The Prime Minister, Hon Scott Morrison, has put 'backing small and family businesses' at the top of the Federal Government's job-creating economic agenda.⁴

"My government will create 250,000 new small and family businesses across the country over the next five years through our plan for a stronger economy."

The Australian Treasurer, Hon Josh Frydenberg, laid out in a recent opinion piece the importance of small businesses as the engine room of the Australian economy in creating jobs and investment, but also nominated access to finance as high amongst the challenges facing small businesses:⁵

"With nine out of every 10 jobs being in the private sector, it is critical that the Government and business work effectively together to continue Australia's record 28 years of consecutive economic growth."

"A key area of focus for the Government is backing small and medium-sized businesses who together employ more than seven million Australians. ..."

*"While there are many important issues affecting small business, including regulation, tax, skills and infrastructure, **one that is always front of mind for small business owners is access to the necessary capital to enable them to innovate and grow.**"*

The Assistant Treasurer and Minister for Housing, the Hon Michael Sukkar, has recently outlined that the Government will be prioritising in the 2020-2021 Budget, options to encourage small business to invest with confidence in their business and the need to limit small business interactions with the tax system.

"The Treasurer and I are, for next year's budget, examining a range of incentives and options through the tax system to really catalyse and encourage investment from SMEs in growing their businesses and creating jobs."⁶

"I am looking for taxpayers including small businesses to have less frequent interactions, but for those interactions to be more positive than they may have been in the past."⁷

The Tax Commissioner, Chris Jordan, has spoken of the need to help small businesses to 'thrive' and to improve their cash flow.

"Collectively, we want to help viable small businesses thrive. We want to regulate objectively, and not get in the way unnecessarily."

"At a higher level as regulators, my view is that we must join forces across government in conjunction with organisations like COSBOA to help small businesses

⁴ <https://www.news.com.au/national/federal-election/scott-morrison-pledges-to-create-hundreds-of-thousands-of-new-small-businesses/news-story/7e6ade9130ff6d0fb0df6893e84bef48>

⁵ <https://joshfrydenberg.com.au/latest-news/backing-small-business-2/>

⁶ <https://www.mybusiness.com.au/finance/6472-business-tax-incentives-up-for-grabs-in-2020>

⁷ <https://www.smartcompany.com.au/finance/tax/sukkar-ato-accountants/>

through the combined complexity of our laws, regulations and systems and allow them to thrive.”⁸

“If we can work with small businesses earlier to improve their cash flow, record keeping, identify mental health challenges and understand why they are finding it difficult to comply, then that is even better.”⁹

Federal Government responses to small business access to finance concerns

The Australian Government acknowledges that small businesses are the cornerstone of the economy and when they prosper, so does the rest of Australia.

Having consistently outlined the importance of small businesses having access to finance to help them invest with confidence and create jobs, the Australian Government has already developed a range of policy responses, including:

- Establishing and investing \$100 million in an Australian Business Growth Fund (BGF) to help ensure SME access to finance;
- Establishing the \$2 billion Australian Business Securitisation Fund to help small businesses get the funding they need at a better rate;
- Increasing and expanding the instant asset write-off to \$30,000 for businesses with a turnover of up to \$50 million;
- Providing SME businesses with a turnover of less than \$50 million with tax relief via a reduction in the company tax rate from 30 to 25 per cent;
- Ensuring small businesses are paid on time by the Commonwealth Government, with the payment time reduced to days on 1 July 2019 and large businesses tendering for government contracts will have to match the 20-day policy.

The ReadyTax solution is a natural extension of the Australian Government’s policy package, to help further support and free up small business to invest with confidence and generate jobs.

What is ReadyTax and what legislative and systems changes will be required to facilitate it?

ReadyTax is a new and innovative way for small to medium enterprises to access low-cost finance to pay their tax, manage cash flow, create jobs, invest and grow. It has been operating successfully in New Zealand for 17 years.

It will allow Australian SMEs to fund their Pay As You Go Instalment (PAYGI) payments without needing to incur expensive borrowing costs.¹⁰

⁸ <https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-s-speech-to-COSBOA-Summit-2019/>

⁹ <https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-s-address-to-the-Tax-Institute-National-Convention-2019/>

¹⁰ ReadyTax assists meeting SMEs PAYGI income tax obligations and not salary withholding or GST.

Strong credit and compliance safeguards offered as part of this solution, limit potential defaults in order to protect Australian businesses as well as the Australian Tax Office's revenue collection.

How does ReadyTax work?

The ReadyTax provider will place the required funds in a ReadyTax trust account with the ATO to cover the PAYGI payment and the SME will pay a small upfront fee to cover the cost of the service.

The SME has up to 22 months to make payment of the principal to the ReadyTax provider (within certain criteria). Once payment of the principal is made to the ReadyTax provider, the funds are transferred from the ReadyTax ATO trust account to the SME's ATO account.

This would be organised and arranged by registered and approved ReadyTax providers working in partnership with the ATO.

If the SME does not pay the ReadyTax provider, the funds can be withdrawn from the ReadyTax ATO trust account. In practice internationally this happens very rarely and most often when the SME goes into losses for that income year, in which case the SME does not have any tax liability.

Data integrations could be used to validate that SMEs are compliant prior to entering into an arrangement and make such compliance a condition of entry.

What legislation and systems changes will be required?

To facilitate this small business finance reform for Australian SME's only a limited legislative change will be required.

Minor legislative changes are required to allow Australian small business to access this finance solution to allow for the transfer funds from a ReadyTax trust account at the ATO to their Income Tax Account at the ATO to satisfy a tax liability. This same amendment would provide for refundability of payments made to the ReadyTax ATO trust account in a limited range of circumstances.

A legislative amendment would also be required to allow providers of ReadyTax services to be vetted and approved by the ATO in order to offer ReadyTax services and the trust accounts would need to be held by independent public trustees.

Draft amendments to the tax acts incorporating the changes referenced above are set out in Appendix [1] of this submission. This would ensure ReadyTax maintains and supports the tax administration.

International experience suggests that revenue authorities such as the ATO are most suited to collecting tax but that the provision of financial arrangements is not the ATO's core business.

ReadyTax providers by their nature, as private sector operators, are established to manage the competing pressures of cash flow for SMEs and tax collection by the ATO and bring both parties together.

ReadyTax providers will need to know Australian customers' tax file numbers. Making ReadyTax providers subject to the Digital Services Provider operational framework will provide an important layer of security for small businesses.

ReadyTax will require the following minor operational adjustments at the ATO:

- Payment Flag – A note on the Income Tax accounts of taxpayers who have used ReadyTax to pay their PAYGI instalments. This is to prevent those SMEs being subjected to debt follow up by the ATO while they have a ReadyTax arrangement in place.
- Transfers – A process to transfer ReadyTax amounts from the ReadyTax ATO trust account to individual taxpayer ATO accounts. This could be a manual process.
- Receiving tax payments and refunds should be very similar to existing processes and will not involve any increase in workload as evidenced by the New Zealand experience.

ReadyTax allows for funding to be made available to SMEs at around four percent per annum without the need for additional security or disclosures. This reduction in disclosure and no required security reduces compliance costs and has the potential to improve taxpayer PAYGI compliance.

Safeguards to mitigate risk

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- ReadyTax providers disclosing to the ATO those taxpayers using ReadyTax and restricting its use to taxpayers with an appropriate compliance rating. Note that in New Zealand there is almost full completion of arrangements without any compliance rating. That is because small businesses not interested in meeting their primary income tax obligations have no interest in engaging with ReadyTax;
- Tax collections that are a far stronger and timely signal of business distress like PAYG Withholding and GST are excluded from ReadyTax, leaving ReadyTax to deal only with primary income tax;
- Helping protect privacy and adhering to secrecy rules by taking ReadyTax providers through the DSP Operational Framework at the ATO.

What will the ReadyTax initiative cost?

The implementation of this proposal would be incorporated into the ATO's existing business and digital transformation budgets, similar to the implementation phase adopted by the IRD in New Zealand.

ReadyTax removes the risk of non-payment of PAYGI by paying the PAYGI on day one and the business then has until the final tax payment date to pay it off.

If small businesses then need assistance with the next year's PAYGI, this can be covered with a new arrangement. In this way ReadyTax can become a permanent liquidity injection for SMEs. Because a fee is paid up front, only taxpayers expecting to make profit (i.e. not in distress) opt into the arrangement at the outset. Evidence demonstrates that there is almost 100 percent full completion of arrangements in New Zealand. Therefore, based on the New Zealand experience, the risk to Australian revenue is negligible.

The Tax Commissioner commented at the COSBOA Summit in Melbourne on 29 August 2019 that:

“SMEs are paying about 95 percent of the tax that the ATO estimates they should and this shows SMEs are doing the right thing.”

Such behaviour lends support to the premise that SMEs would use ReadyTax as an additional compliance tool.

The ReadyTax solution in New Zealand

ReadyTax has been operating in New Zealand since 2003 and it forms a central plank of the Inland Revenue’s broader tax collection framework.

The experience of SMEs in New Zealand has been extremely positive, with over 60,000 businesses having accessed the equivalent of ReadyTax to manage income tax payment obligations.

As a result, there is now a growing demand for this affordable financing solution, with a 20 percent year-on-year growth recorded since 2003. Over 50 percent of businesses are repeat users of the solution as a way of accessing low-cost finance to meet their tax obligations.

In terms of scale, this solution now accounts for over \$800 million in payments annually (about seven percent of all New Zealand business income tax payments) and this continues to grow.

Keith Taylor, the Tax Policy Manager for Inland Revenue in New Zealand notes:

“We don’t think [of ReadyTax] as a high risk area... those who use the facility have already paid [interest to the Provider] which indicates they are intending to comply.”

The ReadyTax solution for Australia is simpler and more targeted than the New Zealand model. As such, it poses less operational and implementation challenges for the ATO and other relevant Australian departments and agencies.

Conclusion: The benefits of ReadyTax

Small businesses make up more than 99 percent of all Australian businesses. They contribute \$380 billion to the economy each year and employ around seven million people.

Small business tax debt represents 62 percent of all outstanding tax debt and has risen by \$3.5 billion over the last three years to \$16.5 billion.

Australian SMEs need access to finance to continue to generate jobs and invest with confidence.

In addition, the ATO wants to ensure tax gets paid on time.

ReadyTax delivers significant benefits to small businesses and to the ATO.

For small businesses, ReadyTax helps alleviate the working capital crisis that small business operators are currently facing in Australia.

Having more cash retained in the business for longer assists in creating jobs; weathering seasonal fluctuations; riding out business shocks; overcoming the impact of drought and natural disasters; funding business growth and expansion.

This in turn contributes to more PAYG Withholding and GST being paid as well as improving tax compliance by the SME sector in meeting primary income tax obligations and potentially improving tax collections. It also reduces the administrative compliance costs for SMEs associated with standard bank funding arrangements.

For the taxpayer and the government, ReadyTax provides a proven policy solution to increase access to finance for Australian businesses; boosts compliance; and is revenue neutral from a cost perspective.

It will also allow the Australian Government to reduce the administrative burden of tax collection for the ATO because ReadyTax reduces the overall tax compliance burden on both the ATO and business.

ReadyTax has the capacity to be another elegant policy response to what is one of the most significant policy challenges facing small business: namely, access to finance to aid cash flow and growth. ReadyTax can be the next no-cost step along the road of the Australian Government's small business agenda.

More Information

We have included further information to the Australian Government, Treasury and the Australian Tax Office on the proposed ReadyTax initiative, including draft indicative amendments to the Tax Administration Act that would facilitate the ReadyTax initiative.

Further, senior representatives of the New Zealand Inland Revenue Department, who oversee the same policy initiative in New Zealand, would be pleased to provide a briefing to representatives of the Australian Government and Treasury on the success of this solution in New Zealand, including the technical aspects associated with the implementation phase of this initiative.

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APPENDIX 1

Subdivision 45[] – “Tax Finance Accounts – Notional Payments of Tax”:

TABLE OF SECTIONS

- 45-xx01 What this Subdivision is about
- 45-xx05 Tax Finance Accounts
- 45-xx10 Notional payment of PAYG instalments
- 45-xx20 Transfer from Tax Finance Accounts
- 45-xx30 Repayment from Tax Finance Accounts

SECTION 45-xx1 WHAT THIS SUBDIVISION IS ABOUT

45-xx1 Tax Payment Intermediaries offer business taxpayers flexible finance options to manage PAYG instalment payment risks through the creation of Tax Finance Accounts where deposits on behalf of a business taxpayer are later transferred to the taxpayer’s account to satisfy a liability to PAYG instalment tax.

SECTION 45-xx5 TAX FINANCE ACCOUNTS

45-xx5(1) A Tax Payment Intermediary may establish a Tax Finance Account with the Commissioner.

45-xx5(2) The Commissioner may create Tax Finance Accounts as the Commissioner sees fit for the administration of this Subdivision.

45-xx5(3) The Commissioner:

- (a) is not required to oversee or audit the operation of the Tax Finance Account; and
- (b) is not liable for any loss that a person suffers because of the way in which a Tax Payment Intermediary operates the Tax Finance Account.

45-xx5(4) A Tax Payment Intermediary may make TFA Deposits.

45-xx5(5) A Tax Payment Intermediary must report the following information to the Commissioner in relation to each TFA Deposit no later than 7 days after the TFA Deposit is made:

- (a) the full name of the taxpayer;
- (b) the taxpayer’s *tax file number;
- (c) the taxpayer’s *ABN;
- (d) the amount of the TFA Deposit referable to each taxpayer; and
- (e) the date of each deposit.

SECTION 45-xxx10 NOTIONAL PAYMENT OF PAYG INSTALMENTS

45-xxx10 The Commissioner must notionally treat each TFA Deposit in relation to a taxpayer as a payment of the taxpayer’s *PAYG instalment obligations under this Division to

the extent of the TFA Deposit and as having been made on the date of the TFA Deposit and accordingly:

- (a) all of the taxpayer's reporting to and dealings with the Commissioner including adjustments amendments statements self-assessments and accounts will be on the basis that the taxpayer's *PAYG instalment obligations under this Division had been met to the extent that the TFA Deposit was made on the date of the TFA Deposit; and
- (b) all adjustments amendments statements assessments and accounts made by the Commissioner including any BAS, IAS or RBA regarding the taxpayer will be calculated on the basis that the taxpayer's *PAYG instalment obligations under this Division had been met to the extent that the TFA Deposit was made on the date of the TFA Deposit and the Commissioner will make no demand for further payment in respect of those amounts and no amount of penalty or interest shall be incurred by the taxpayer in relation thereto.

SECTION 45-xx20 TRANSFER FROM TAX FINANCE ACCOUNTS

45-xx20 A Tax Payment Intermediary may instruct the Commissioner to transfer an amount of a TFA Deposit in relation to a taxpayer from its Tax Finance Account to be credited against the final income tax liability of that taxpayer for the relevant income year by notice in writing specifying:

- (a) the full name of the taxpayer;
- (b) the taxpayer's *tax file number;
- (c) the taxpayer's *ABN;
- (d) the amount of the deposit referable to the taxpayer;
- (e) the date of each deposit; and
- (f) the amount to be credited against the taxpayer's final income tax liability for the relevant income year.

SECTION 45-xxx30 REPAYMENT FROM TAX FINANCE ACCOUNTS

45-xxx30(1) A Tax Payment Intermediary may demand repayment of an amount of a TFA Deposit in relation to a taxpayer from its Tax Finance Account by notice in writing specifying:

- (a) the full name of the taxpayer;
- (b) the taxpayer's *tax file number;
- (c) the taxpayer's *ABN;
- (d) the amount of the deposit referable to the taxpayer;
- (e) the date of each deposit; and
- (f) the amount to be repaid.

45-xxx30(2) Where the Commissioner receives a notice pursuant to subsection (1) above the Commissioner shall immediately repay the amount so specified to the Tax Payment Intermediary from the Tax Finance Account and the taxpayer shall to that extent be treated as never having made the notional payment referred to in section 45-xx10 and the taxpayer's liability to tax, penalties and interest will be recalculated on that basis.

45-xxx30(3) The amount so paid by the ATO shall bear interest payable to the Tax Payment Intermediary at the applicable rate paid by the ATO on overpayments and early payments of tax.

Additional Definitions:

BAS means a business activity statement in the form prescribed by the Commissioner from time to time.

IAS means an investment activity statement in the form prescribed by the Commissioner from time to time.

RBA has the same meaning as in Section 8AAZA of the Taxation Administration act 1953.

TFA Deposit means an amount deposited into a Tax Finance Account in respect of a taxpayer's liability to pay a PAYG instalment*.

Tax Finance Account means an account with the Commissioner operated by a *custodian on behalf of the Tax Payment Intermediary.

Tax Payment Intermediary means an entity which is:

- (a) approved by any relevant *government entity to carry on a business of providing finance to taxpayers and operating a Tax Finance Account;
- (b) a registered tax agent; and
- (c) approved by the Commissioner for the purposes of this Subdivision.