

LI 2022/30 -



Legislative Instrument

Taxation Administration Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2022

I Ben Kelly, Deputy Commissioner of Taxation, make this determination under subsection 396-70(4) Schedule 1 to the *Taxation Administration Act 1953* (TAA).

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Policy, Analysis and Legislation
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1 Name of instrument

This instrument is the *Taxation Administration Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2022*.

2 Commencement

This instrument commences on 1 July 2017.

3 Classes of entities to which this instrument applies

This instrument applies to:

- (1) companies whose shares are listed for quotation in the official list of an Australian financial market;
- (2) trustees of a unit trust; and
- (3) trustees of a trust (other than a unit trust) who hold shares in a company or units in a unit trust to which one or more beneficiaries of the trust are absolutely entitled, in relation to transactions in an income year for which the trustee does not give the Commissioner of Taxation an income tax return.

4 Reporting exemptions

The classes of entities to which this instrument applies are not required to report about the following classes of transactions under section 396-55 of Schedule 1 to the TAA:

- (1) An entity to which this instrument applies is not required to provide information under table items 6 or 8 in relation to a transaction where:
 - (a) the transaction relates to a share in a company that is listed for quotation in the official list of an Australian financial market; and
 - (b) data in relation to transactions on that Australian financial market is not required to be delivered to the Australian Securities and Investments Commission under the market integrity rules.
- (2) A trustee of a unit trust is not required to provide information under table item 7 in relation to a transaction where, at the time of the transaction:
 - (a) the unit trust has fewer than 10 beneficiaries; and
 - (b) the total market value of the assets held by the trustee in the unit trust is less than \$5 million.
- (3) A trustee of a trust (other than a unit trust) is not required to provide information under table item 8 in relation to a transaction:
 - (a) where, at the time of the transaction:
 - (i) the trustee is not required to hold an Australian financial services licence, within the meaning of section 761A of the *Corporations Act 2001*; and
 - (ii) the total market value of the assets held by the trustee in all trusts of which it is a trustee is less than \$5 million;
 - (b) that relates to shares in a company that are not listed for quotation in the official list of an Australian financial market; or
 - (c) where the trustee can reasonably expect that:
 - (i) some other entity will include information about the transaction in a report given to the Commissioner of Taxation under table item 5, 6, 7 or 8 in section 396-55 of Schedule 1 to the TAA; and
 - (ii) that report will identify, as the owner of the shares or units, the entity that is absolutely entitled to them as a beneficiary of the trust.
- (4) An entity to which this instrument applies is not required to provide information under table items 6, 7 or 8 in relation to a transaction where any entity is required to provide information to the Commissioner in relation to the transaction under Division 392 of Schedule 1 to the TAA (which is about employee share schemes).
- (5) An entity to which this instrument applies is not required to provide information under table items 6, 7 or 8 where an investment is disposed of or purchased without the consent of the investor if, within the reporting period:
 - (a) the transaction is reversed;
 - (b) the investment is not disposed of at a loss to the investor; and
 - (c) the investor has been notified of the transactions.

- (6) An entity to which this instrument applies is not required to provide information under table item 6 in relation to a transaction where the transaction relates to a share that is not listed for quotation in the official list of an Australian financial market.

5 Additional information

This instrument does not prevent the reporting of information.

Note: For example, an entity may wish to report on transactions that are covered by this instrument, together with other information that it is required to report under the TAA, if this creates administrative efficiencies.

6 Definitions

- (1) In this instrument:

Australian financial market means a financial market (within the meaning of Chapter 7 of the *Corporations Act 2001*) operating under an Australian market licence granted under subsection 795B(1) of that Act.

market integrity rules means rules made under section 798G of the *Corporations Act 2001*.

- (2) Terms in this instrument that are defined in the TAA have the same meaning as in the TAA.

Note: Section 3AA of the TAA provides that an expression in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*.

7 Repeal

The instrument specified in Schedule 1 to this instrument is repealed.

Schedule 1

Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2018 (F2018L00473)