

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Taxation Administration Act 1953

Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022

The *Taxation Administration Act 1953* (the Act) provides for the administration of certain Acts relating to taxation, and for related purposes.

Subsection 355-65(10) in Schedule 1 to the Act provides that the Minister may, by legislative instrument, declare a program administered by an Australian government agency to be a relevant COVID-19 business support program for the purposes of item 12 of Table 7 in subsection 355-65(8) in Schedule 1 to the Act.

The Minister may make a declaration if the Minister is satisfied that the program is, in effect, responding to economic impacts of the Coronavirus, and directed at supporting businesses that have been significantly disrupted as a result of a public health directive.

As part of ongoing responses to the Coronavirus pandemic, State and Territory governments are providing grants to certain businesses to help them manage the impact of the pandemic on their business operations.

The *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Declaration 2021* (the Principal Declaration) declared certain programs administered by government agencies of the Commonwealth, New South Wales, Victoria and Queensland as relevant COVID-19 business support programs.

The *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2021* (the first Amendment Declaration) amended the Principal Declaration to declare additional programs in South Australia and the Australian Capital Territory as relevant COVID-19 business support programs and amended some of the administering agencies of some of the declared programs in New South Wales and Queensland following administrative changes in those jurisdictions.

The *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022* (the second Amendment Declaration) amends the Principal Declaration to declare additional programs in New South Wales and South Australia as relevant COVID-19 business support programs.

The effect of a program being declared a COVID-19 business support program is to create an exception to the general prohibition on disclosing protected tax information in section 355-25 in Schedule 1 to the Act, enabling a taxation officer to share the protected information for the purposes of administering the declared program.

The Australian agency receiving the protected information must only use the information for the purposes for which it was disclosed. The Act provides offences relating to the misuse of disclosed information.

Consultation was undertaken with the Australian Taxation Office as the administering agency of the Act, and the governments of New South Wales and South Australia, who requested the amendments.

Details of the amendments are set out at [Attachment A](#).

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The instrument commences on the day after it is registered on the Federal Register of Legislation.

An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

A Statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022

Section 1 – Name

This section provides that the name of the Regulations is the *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022*.

Section 2 – Commencement

This section prescribes that the instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The instrument is made under the *Taxation Administration Act 1953* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument will be amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to the instrument has effect according to its terms.

Schedule 1 – Amendments

Items 1 to 5 of the Schedule insert new items into the table in section 5 of the *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Declaration 2021*, declaring the following additional programs in New South Wales and South Australia as relevant COVID-19 business support programs for the purposes of item 12 of Table 7 in subsection 355-65(8) in Schedule 1 to the Act.

New South Wales

- 2021 Land Tax COVID-19 Relief as it relates to commercial tenants only
- 2022 Small Business Support Grant
- Alfresco Restart Rebate
- Commercial Landlord Hardship Fund

South Australia

- Business Hardships Grants (December 2021 & January 2022)
- COVID-19 Tourism and Hospitality Support Grant

- COVID-19 Tourism, Hospitality and Gyn Grants

Details of the additional programs are set out below.

New South Wales programs

The 2021 Land Tax COVID-19 Relief program provides a reduction of up to 100 per cent of land tax payable for the 2021 land tax year to commercial and residential landowners who have given a reduction in rent to a tenant who is experiencing financial distress due to COVID-19. To be eligible, the rent reduction must not be required to be repaid. ATO data can only be shared where the application relates to a commercial or retail tenant.

The 2022 Small Business Support Grant provides cashflow to eligible businesses negatively affected by density restrictions and other disruptions caused by the Omicron wave of COVID-19. Eligible businesses may claim the equivalent of 20 per cent of weekly payroll in cashflow for the four weeks of February 2022.

The Alfresco Restart Rebate allows eligible small and medium food and beverage businesses emerging from COVID-19 lockdown to claim a rebate against costs and expenses incurred in relation to opening or expanding outdoor ('alfresco') dining areas.

The Commercial Landlord Hardship Fund provides grants to eligible small landlords experiencing financial hardship due to the rental relief they provided to their retail or commercial tenant(s) who were financially impacted by the 2021 COVID-19 lockdown in New South Wales.

South Australia programs

The Business Hardship Grant provides a one-off grant to businesses impacted by COVID-19 restrictions in place from 27 December 2021 to 9 January 2022 inclusive, where those businesses are ineligible for other grants and they can demonstrate a reduction in turnover of at least 50 per cent during the specified period. Businesses operating from commercial premises in the Adelaide Central Business District may be eligible for a further grant of \$2,000 under the program.

The Business Hardship Grant—Additional Round—January 2022 provides an automatic top-up payment to businesses impacted by the COVID-19 restrictions in place from 10 January 2022 and 30 January 2022 inclusive, which received the Business Hardship Grant. Other businesses who did not receive that grant may be eligible for the additional round if able to demonstrate a reduction in turnover of at least 50 per cent during the specified period.

The COVID-19 Tourism and Hospitality Support Grant program provides top-up financial support for eligible tourism and hospitality businesses impacted by government COVID-19 restrictions, who previously received a COVID-19 Additional Business Support Grant. The grant is to assist with business costs and other activities related to the operation of the business.

The COVID-19 Tourism, Hospitality and Gym Grant program provides financial support for eligible businesses adversely impacted by COVID-19 restrictions. Eligible

businesses include those who received the COVID-19 Tourism and Hospitality Support Grant, and other businesses which meet eligibility criteria, including a 30 per cent or greater reduction in turnover from 27 December 2021 to 9 January 2022 inclusive.

The COVID-19 Tourism, Hospitality and Gym Grant—Additional Round—January 2022 provides financial support for eligible businesses adversely impacted by COVID-19 restrictions. Eligible businesses include those who received the COVID-19 Tourism and Hospitality and Gym Grant, and other businesses which meet eligibility criteria including a 30 per cent or greater reduction in turnover from 10 January 2022 to 30 January 2022 inclusive.

Item 5 of the Schedule inserts a new Section 6, which provides that the whole Declaration is repealed on 30 June 2026. A five-year operational period to 30 June 2026 supports the specified purposes of the Declaration, as it provides a reasonable period for the Australian Taxation Office to share the protected information with the relevant State and Territory agencies administering the relevant programs, especially in circumstances where extended compliance activities may occur.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2022* is to amend the *Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Declaration 2021*, to declare certain programs in New South Wales and South Australia as relevant COVID-19 business support programs for the purposes of assisting these States to administer their respective COVID-19 business support programs.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.