THE TAX INSTITUTE

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Project Manager
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Australian Taxation Office

By email: dalila.vellotti@ato.gov.au

Dear Ms Vellotti,

Consultation paper on streamlining transfer balance cap event-based reporting arrangements for self-managed super funds

The Tax Institute welcomes the opportunity to make a submission to the Australian Taxation Office (**ATO**) in relation to the consultation paper on streamlining transfer cap event-based reporting arrangements for self-managed super funds (**the Consultation Paper**).

In the development of this submission, we have consulted with our National Superannuation Committee to prepare a considered response which represents the views of the broader membership of The Tax Institute.

The Tax Institute broadly supports a simplified transfer balance account reporting (**TBAR**) system for self-managed super funds (**SMSFs**). We consider that SMSFs should be encouraged to report regularly, but note the need to ensure that SMSF trustees are not placed under an excessive compliance burden. Our comments below broadly follow the questions in the Consultation Paper.

Preferred start date for reporting

We consider that the new TBAR system for SMSFs should begin from 1 July 2023. We note that tax professionals have faced a difficult period over the previous two years, focussing on economic stimulus measures and business survival, often without recompense. Further, during 2022 they will be required to adopt to new tax compliance approaches such as adopting Phase 2 of the Single Touch Payroll, and addressing risks under PCG 2021/4: Allocation of Professional Firm Profits while also assisting clients with any remaining stimulus measures. Additionally, tax professionals will be seeking to maintain business operations as best as possible given the challenges of high rates of absenteeism due to the Omicron COVID-19 variant.

We consider that adopting the new TBAR system for SMSFs from 1 July 2023 will allow tax professionals to ensure they are ready to adopt this increased reporting criteria. It will also allow SMSF trustees sufficient time to better understand their reporting obligations and enable them to more readily meet the new reporting requirements.

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Preferred frequency of future reporting for SMSFs

We consider that quarterly reporting strikes a reasonable balance between ensuring individuals have the relevant information without placing most SMSF trustees under excessive compliance burdens. We also consider that SMSFs should be supported and encouraged to report earlier and more frequently rather than being required to do so. Examples of the relevant support include a safe harbour for reporting best estimates (discussed below), regular communications and training from the ATO to SMSF trustees regarding their reporting requirements, and frequent reviews of the relevant forms and processes to ensure an efficient and simple self-reporting environment.

However, our members have noted that SMSFs with small balances are likely to face an increased compliance cost with more regular reporting which could impact member's balances. Further consideration should be given to allowing SMSFs with small balances the option of annual reporting to reduce the costs and compliance burdens. For example, an annual reporting system could be used for SMSFs with balances below $500,000.

Other comments

Safe harbour for reporting best estimates

We consider that SMSF trustees should be provided with a safe harbour on the amounts reported provided they are based on best estimates. We note that SMSF trustees are frequently required to estimate the value of income streams and assets based on the information available to them at a given time. This information can often be incomplete (e.g. bank statements, dividend and trust distributions that have not yet been reported) and trustees are required to make reasonable assumptions that, with the benefit of hindsight, may appear inaccurate. As a result, the values reported may change over time due to factors beyond the control of SMSFs trustees.

The Consultation Paper notes that SMSF trustees may choose to use reasonable estimate pursuant to the valuation guidelines for SMSFs. We consider that this should be extended to a safe harbour that provides SMSF trustees with protection provided they use a reasonable methodology for the evidence that they should reasonably be expected to have when making the estimate.

The current position is not clear and additional unnecessary costs are often incurred by advisers when preparing reports. Examples of these costs include the preparation of interim financial statements and seeking to obtain confirmation from the various investment bodies. This problem is further compounded by the fact that many SMSFs do not have real time reporting systems and preparing interim financial statements can be a costly and time-consuming process.

Providing a safe harbour would ensure that SMSF trustees have greater confidence in their reporting and also encourage reporting at an earlier stage. Further, if the safe harbour is supported with a sound mechanism that allows for correction, SMSF trustees may be encouraged to review and report any transfer balance account information on a more regular basis. SMSFs would also feel confident to report any adjustments if they subsequently detect an under reporting when subsequent financial statements bring any under reporting to light.

We would be pleased to continue to work with the ATO on further guidance arising out of the Consultation Paper or discussing our comments above in further detail.

The Tax Institute is the leading forum for the tax community in Australia. We are committed to shaping the future of the tax profession and the continuous improvement of the tax system for the benefit of all. In this regard, The Tax Institute seeks to influence tax and revenue policy at the highest level with a view to achieving a better Australian tax system for all. Please refer to **Appendix A** for more about The Tax Institute.

If you would like to discuss any of the above, please contact our Associate Tax Counsel, Abhishek Shekhawat, on (02) 8223 0013.

Yours faithfully,

Jerome Tse

President

APPENDIX A

About The Tax Institute

The Tax Institute is the leading forum for the tax community in Australia. We are committed to representing our members, shaping the future of the tax profession and continuous improvement of the tax system for the benefit of all, through the advancement of knowledge, member support and advocacy.

Our membership of more than 11,000 includes tax professionals from commerce and industry, academia, government and public practice throughout Australia. Our tax community reach extends to over 40,000 Australian business leaders, tax professionals, government employees and students through the provision of specialist, practical and accurate knowledge and learning.

We are committed to propelling members onto the global stage, with over 7,000 of our members holding the Chartered Tax Adviser designation which represents the internationally recognised mark of expertise.

The Tax Institute was established in 1943 with the aim of improving the position of tax agents, tax law and administration. More than seven decades later, our values, friendships and members' unselfish desire to learn from each other are central to our success.

Australia's tax system has evolved, and The Tax Institute has become increasingly respected, dynamic and responsive, having contributed to shaping the changes that benefit our members and taxpayers today. We are known for our committed volunteers and the altruistic sharing of knowledge. Members are actively involved, ensuring that the technical products and services on offer meet the varied needs of Australia's tax professionals.