Tax & Super Australia

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Submission to Treasury Discussion Paper on Three-yearly audit cycle for some self-managed superannuation funds

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CEO'S FOREWORD

Taxpayers Australia Limited, trading as Tax & Super Australia (TSA) welcomes the opportunity to lodge its submission to the Treasury Discussion Paper on three-yearly audit cycle for some self-managed superannuation funds.

TSA is a not-for-profit organisation that has assisted accountants, tax and superannuation professionals for nearly a century. It was established in 1919 to help promote a simpler and fairer tax system for all Australians. With a subscriber base of approximately 12,000 including 4,500 members, the organisation has evolved to meet the challenges of Australia's modern tax regime and remain at the forefront of supporting accounting professionals.

TSA is highly concerned about the impact of this proposal on the integrity of the superannuation system in Australia. During a period of volatility where the financial services sector is facing the Royal Commission for inappropriate behaviour pertaining to self-managed superannuation funds, now is not the time to be moving away from annual, independent audits.

We would like to voice our concerns regarding the budget proposal to amend the annual audit for self- managed superannuation funds to a three yearly audit cycle.

Auditors play an integral role in ensuring SMSF trustees comply with the rules and regulations required to be eligible for the tax concessions granted to superannuation funds. To remove the independent audit process for two out of three years will have a significant impact on the compliance rates of trustees and undermine the ability of the system to function effectively. To remove the process of annual independent audit check appears to be unreasonable.

Tax & Super Australia is keen to stress the importance of the financial services industry to the Australian public going forward and the importance of ensuring that the resulting economic costs of regulation and the cumbersome processes of compliance do not stifle competition.

If you would like to discuss any aspect of this submission including any of our recommendations, please contact the undersigned.

Yours sincerely

Moti Kshirsagar
Chief Executive Officer
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1. **How are audit costs and fees expected to change for SMSFs that move to three-yearly audit cycles?**

   Auditors play an integral role in ensuring SMSF trustees comply with the rules and regulations required to be eligible for the tax concessions granted to superannuation funds. To remove the independent audit process for two out of three years will have a significant impact on the compliance rates of trustees, and undermine the ability of the system to function. To remove the process of annual independent audit check appears to be unreasonable. Treasury need to consider the following statements on the practicalities – or lack thereof in the proposal for three-year audits – and provide evidence that counters these factual evidence-based statements:

   - No cost savings are evident by merely combining three audit years into one. On the contrary, this could lead to increased costs associated with unnecessary paper chase to obtain historical documentation in complying with three-year audit requirements. It is always easier to chase documents from six months previously compared to 2 years previously.
   - Auditing standard ASA 501 requires auditors to obtain sufficient and appropriate audit evidence about whether the opening balances are materially correct and that there are no misstatements. Therefore, if the prior year financial statements have not been audited the auditor must perform additional procedures to ensure the opening balances are free of material misstatements. Hence, this will only increase the overall cost of audit work required every three years, which defeats the purpose of having lower cost and less red tape.
   - Prior year financial audits that were prepared to facilitate the annual lodgement of the fund taxation return is bound to identify errors resulting in amended financials being produced, necessitating amendment and re-lodgement of tax returns and superannuation reporting. All these additional and reworking activities will only add to the compliance time and increase the work load for auditors, accountants, trustees and the ATO.
   - Annual overheads for auditors will somehow still need to be maintained to ensure adequate staffing levels, to ensure continuing professional development is achieved, and that mandatory insurance is maintained, to name a few areas of concern.

2. **Do you consider an alternative definition of 'clear audit reports' should be adopted? Why?**

   The use of the "no financial or compliance matters reported in an ACR" is the better option. If the prior year is not audited the auditor will have to have that as an Other Matter on the audit report and it would therefore not be a clear audit report.

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3. What is the most appropriate definition of timely submission of a SAR? Why?

That an SMSF has not submitted a late SAR in the last 3 years. This will hopefully lead to consistency in good record keeping and compliance, which is an even greater concern if audits are only done every 3 years.

4. What should be considered a key event for a SMSF that would trigger the need for an audit report in that year? Which events present the most significant compliance risks?

Our members have provided the following events that they have dealt with on more than an occasional basis:

- The commencement of a superannuation income stream by a member for the first time;
- the death of a member;
- the addition or removal of a member;
- receipt of non-arm's length income (NALI);
- commencement or maintenance of a limited recourse borrowing arrangement (LRBA);
- acquisition of an asset from a related party;
- investments, loans or leases with a related party; or
- in-species lump sum payments to a member, purchase of significant investments, large non-concessional contributions triggering the bring forward rule.

All are significant events and illustrates why it is preferable for an audit to be carried out every year. There are many occasions in an SMSF life-cycle which will carry significant compliance risk. The fact that trustees are aware that their funds are regularly audited encourages them to seek professional advice on making any decisions regarding investments, contributions and benefit payments. Annual audits also mean that if the trustees do make error or are non-compliant in an area, the issue can be corrected or resolved in a timely manner not potentially 3 years later.

5. Should arrangements be put in place to manage transition to three-yearly audits for some SMSFs? If so, what metric should be used to stagger the introduction of the measure?

There are no readily available answers for the initial allocation of time periods for three yearly audits. Any initial allocation will be on an arbitrary basis. We are not aware of, or can recommend, logical allocations of SMSFs to different audit periods, from the current historical arrangements.

Even after an arbitrary allocation of equal numbers of SMSFs to different audit years, normal economic fluctuations will lead to divergences in the numbers of SMSFs subject to audit in each of the three years. These divergences can be quite significant and defeat the attempt of maintaining a regular annual demand for audit services, unless there is a continuing arbitrary intervention on allocation of audit periods.

This divergence in annual demand for these services will lead to a withdrawal of supply and therefore consequent higher costs for SMSFs.

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6. **Are there any other issues that should be considered in policy development?**

This introduction of a three yearly audit cycle is a minor attempt to reduce costs for SMSFs following on from the imposition of extremely excessive costs from the inclusion of accountants, providing minor ancillary advice, Into the Financial Systems Licensing arrangements.

The current ASIC extension of Australian Financial System Licenses to accountants is economically inefficient and will lead to excessive costs and reduced market competition with the consequences that investors, the financial sector and the economy generally will face a deadweight burden leading to net losses in many cases, derived from excessive costs far outweighing the intended benefits. The new AFSL licensing arrangement have caught in its net a large number of small accounting practices and tax advisors who participate in the setting up and the administration of SMSFs.

Accountants who are perfectly qualified to undertake these services are withdrawing their services as a result of excessive compliance costs and highly cumbersome regulatory processes.

Work previously undertaken by accountants is now being considered part of the financial planner arrangements and caught by the new AFSL Licensing.

Due to the changes in the AFSL arrangements for accountants, previous work of the following kind now requires a Statement of Advice.

1. An accountant talking to a client about contribution levels and providing taxation advice, even of a minimal kind such as informing them of the maximum contribution limit is now financial advice.
2. Establishment of a SMSF is now financial advice.
3. Advising the client on changing from accumulation to pension phase is now financial advice.
4. On infrequent occasions for taxation purposes, accountants have advised clients to re-enter the accumulation phase from the pension phase and this is now financial advice

Accountants generally have a total overview of all the financial arrangements of their clients. They are usually the accountant for the business, the SMSF and any other entities such as family trusts. They can provide advice on all financial/taxation aspects for the same people who are the owners of the business, trustees in any family trust and members of the SMSF. Only advice on the SMSF is subject to the AFSL and the requirement for a Statement of Advice. This is an additional cost imposed upon many family businesses which is unnecessary as the advice is of an incidental nature to the entire financial position of the clients.

We are highly concerned about the impact of this proposal on the integrity of the superannuation system in Australia. During a period of volatility where the financial services sector is facing the Royal Commission for inappropriate advice pertaining to self managed superannuation funds now is not the time to be moving away from annual, independent audits.

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If cost savings and process improvements are core to the proposed changes, there are other ways that this could be achieved without compromising the integrity of the annual audit process of self-managed super funds. Following are some recommendations that could help in achieving this:

- Save valuable audit time by removing the need for auditors to review and retain certain documentation.
- Improve the audit process and save ATO resources by removing the need for reporting certain minor contraventions to the ATO.
- Design a more efficient and effective set of auditing standards in consultation with standard setters.

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