

9 July 2014

General Manager
Tax System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: taxagentservices@treasury.gov.au

Dear Sir

Registration requirements for tax (financial) advisers - Draft Regulations

We refer to the exposure draft of regulations to the Tax Agent Services Regulations 2009 and thank you for the opportunity to comment.

The Actuaries Institute is the sole professional body for actuaries in Australia. It represents the interests of over 4,100 members, including more than 2,200 actuaries. Our members have had significant involvement in the development of insurance regulation, financial reporting, risk management and related practices in Australia and Asia.

The Institute was very pleased to see that the exposure draft includes provisions that would exclude a service "that is required, by a law of the Commonwealth or of a State or Territory, to be provided only by an actuary" from being a tax agent service.

We strongly support this provision, which will ensure that actuaries are not subject to regulation under multiple standards for services covered by this exemption.

However this draft provision will only go part way to ensuring that actuaries are not subject to regulation under multiple standards for the same services. Specifically we are concerned that the draft exemption may still mean that actuaries would need to register as either tax agents or tax (financial) advisers in order to provide the following actuarial services:

1. Advice in relation to the determination of the 'tax saving amount' under Section 295-485 of the ITAA 1997 (anti-detriment deduction on death of a member)
2. Advice on the amount of the deduction for actual death and disability benefits paid under Section 295-470 of the ITAA 1997
3. Advice in relation to a member's eligibility for grandfathering (capping) of notional taxed contributions under Subdivision 291-C of the Income Tax (Transitional Provisions) Act 1997
4. Advice in respect of determining whether a W, X, Y or Z additional notional contribution amount applies under Schedule 1A and schedule 1AA of the regulations to the ITAA 1997 (the legislation requires the actuary to do the calculation but not determine which may apply)



5. Advice in relation to the application of ITAA 1997 Section 291-25(3) (determination of the amount of concessional contributions arising from an allocation from a reserve to a member's accumulation account)
6. Advice in relation to end benefit caps and other aspects of ITAA 1997 Division 293 as it affects defined benefit funds
7. Advice in relation to meeting Superannuation Guarantee requirements for an employee via a defined benefit fund or a deemed defined benefit fund
8. Actuarial certifications of the amount, or the method of determination of the amount, of defined benefit contributions relating to employment completed before the introduction of payroll tax on superannuation contributions in a state or territory
9. Advice in respect of the apportionment of defined benefit employer contributions for the purpose of calculating no-TFN tax under Subdivision 295-I of ITAA 1997.

We note that these actuarial services are also regulated by the Institute's Code of Professional Conduct. If the services are not performed adequately, actuaries are subject to the disciplinary scheme administered under that code.

Requiring actuaries to register as either tax agents or tax (financial) advisers in order to provide these services would simply add to compliance costs without any meaningful improvement in consumer protection.

Accordingly we request that the draft regulations be amended to extend the carve out of actuarial services to include those listed above. We suggest a possible way of achieving this would be to revise the draft carve out to (added words in italics):

"(k) a service that is required by a law of the Commonwealth or of a State or Territory, to be provided only by an actuary *or a service that is provided by an actuary about a matter relating to a defined benefit superannuation fund or a deemed defined benefit superannuation fund or about an allocation from a reserve in an accumulation fund.*"

This would recognise the specialist and unique expertise of actuaries in matters affecting defined benefit superannuation funds and reserves in accumulation funds.

Please do not hesitate to contact the Chief Executive Officer of the Actuaries Institute, David Bell (phone 02 9239 6106 or email david.bell@actuaries.asn.au) to discuss any aspect of this letter.

Yours sincerely

Daniel Smith
President