



20 May 2014

Manager
International Tax Treaties Unit
International Tax and Treaties Division
The Treasury
Langton Crescent
PARKES ACT 2600

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Dear Mr. Tony McDonald,

FATCA Intergovernmental Agreement

The Self Managed Superannuation Funds Professionals' Association of Australia (SPAA) welcomes the opportunity to make a submission in relation to the Government considering an intergovernmental agreement (IGA) between Australia and the United States of America (US) in regards to the US *Foreign Account Tax Compliance Act* (FATCA). SPAA supports the Government entering into an IGA in regards to FATCA.

SPAA is the peak professional body representing the self managed superannuation fund (SMSF) sector throughout Australia. SPAA represents professionals, irrespective of their personal membership and professional affiliations, who provide advice to individuals aspiring to higher levels of participation in the management of their superannuation savings. Membership of SPAA is principally accountants, auditors, lawyers, financial planners and other professionals such as actuaries.

SPAA is committed to raising the standard of professional advice and conduct in the SMSF sector by working proactively with Government and the industry. In doing so, SPAA has contributed to SMSF advisors providing a higher standard of advice to SMSF trustees. This in turn has enabled trustees to make more informed decisions addressing the adequacy, sustainability and longevity of their own retirement savings. SMSFs offer trustees greater control and flexibility and have become an integral part of the Australian Superannuation landscape by providing significant and viable options for managers, business owners, executives and retail operators alike.

SPAA supports entering an IGA

SPAA supports the Government entering an IGA with the US government in relation to the implementation of FATCA for Australian entities. We believe that Australia entering an IGA with the US will be the best approach for Australian financial entities complying with FATCA requirements.



Entering into the IGA will result in decreased compliance costs for Australian entities complying with FATCA, less withholding of income from Australian entities by the US Government and maintaining Australian financial services sector competitiveness on an international basis.

Complying superannuation funds to be deemed compliant

Due to the drafting of the FATCA regulations Australian superannuation entities and retirement products are not exempt from the FACTA reporting regime, even though the FATCA regime did not intend to capture such products. However, we understand that there is an opportunity for Australian superannuation entities to be carved out of the FATCA reporting regime by drafting of suitable conditions in Annex II of the Model IGA.

SPAA believes that the Government should ensure that Australian superannuation funds, including SMSFs, should be carved out of FATCA by drafting appropriate exemptions under the Exempt Beneficial Owner, Deemed Compliant and Exempt Product categories in Annex II. We believe that the Deemed Compliant category would be most suitable to carving out complying superannuation funds from the FATCA regime.

Any carve-out for superannuation funds as being deemed compliant should be drafted in a suitably broad fashion so that all complying superannuation funds, including SMSFs, are relieved from FATCA. This will ensure that there is a level playing field in the superannuation industry, which will ensure competition and unhindered consumer choice in the industry.

A need for certainty

SPAA believes it would be in the best interest of the broader superannuation industry, and for the SMSF sector, if the Government was to make a public announcement of its intention to enter an IGA. This would provide much needed certainty for fund trustees and their advisors in implementing any compliance measures required to meet FATCA obligations. Also, any announcement and drafting of the IGA should be accompanied by industry consultation to ensure that any exemptions drafted under the IGA will meet the superannuation industry's needs.

If you have any questions about our submission or would like to further discuss it please contact us.

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Yours sincerely

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