THE TAX INSTITUTE

3 September 2018

Ms Nicole Mitchell
Division Head
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: superannuation@treasury.gov.au

Dear Nicole

Three-yearly audit cycle for some SMSFs

The Tax Institute welcomes the invitation to make a submission to Treasury in relation to the '*Three-yearly audit cycle for some self-managed superannuation funds*' Discussion Paper dated July 2018 (**Discussion Paper**).

Summary

The Tax Institute does not support the proposal for a three-yearly audit cycle for SMSFs.

The reasons that we do not support the proposal are that:

- We consider that the proposal is unlikely to achieve its stated objectives of reducing red tape, compliance burdens or costs for SMSF trustees.
- If these objectives cannot be achieved, the costs and complexity of implementing the proposal are not justifiable.
- The red tape, compliance burdens and costs may remain the same or may even increase under the proposal.
- The proposal may have a negative impact on the integrity of the superannuation and tax system.
- The take up rate of the proposal is unlikely to be significant.

Accordingly, The Tax Institute considers that other alternatives should be investigated to achieve the objectives of reducing red tape and compliance burdens for SMSF trustees. For example, the dual audit process for SMSFs could be re-examined. A SMSF audit encompasses two audits – a Financial Statement audit and a Compliance Audit. If the reduction of red tape is to be achieved, then duplication of responsibility should be identified and, eliminated where the impact is indiscernible.

Requirement to audit every year remains

The proposal outlined in the Discussion Paper, will change the SMSF audit cycle for certain funds described as “good compliers”.

The stated objective of the proposal is to reduce the compliance costs and red tape for the SMSF sector by rewarding good-record keeping and compliance. If enacted, certain SMSFs could self-assess their eligibility to adopt the reduced three yearly audit cycle. However, there will still be a requirement to have all years audited, albeit in the one year.

The Tax Institute considers that the proposal to audit 3 years in a single year will not reduce red tape or reduce the compliance burden on SMSFs. The proposal outlined in the Discussion Paper, involves a timing change rather than any substantive change. It is only the timing of when the SMSF audits are required to be carried out that is proposed to change (ie rather than annually, every three years for each year in that timeframe for certain SMSFs that opt in).

The proposal may even increase compliance burdens as it may in fact be more difficult to locate the relevant documentation given that it is no longer contemporaneous to the relevant events. Arguably, it will be more efficient and practical to provide such documents on a contemporaneous basis rather than once every 3 years.

Further, we consider that there will be no integrity benefits to the system. It may in fact have a negative impact on the integrity of the system. Again, this is due to the time lag between the relevant transactions/documentation and the time required to provide the documents for auditing.

Eligibility Criteria – unlikely to reduce red tape

The Discussion Paper lists the Eligibility Criteria as:

- Good recording keeping and compliance: SMSFs will have to meet eligibility criteria of timely submission of SARs and three consecutive years of clear audit reports to move from an annual audit cycle to a three-yearly audit cycle; and
- Key events: A SMSF on a three-yearly audit cycle will be audited in every year in which a key event occurs, with such audits covering all years since the previous audit.

The Eligibility Criteria, and the self-assessment aspect of this proposal, makes it more complicated than would be expected in a move to “reduce red-tape”. By way of an example, if a SMSF qualifies in one year for adoption of a 3-year audit cycle and, then, in year 2, a member commences an income stream (an example of a “Key Event”), the fund must be audited in that year. After that time, subject to satisfying the Eligibility Criteria, the Fund can move back to a 3-year cycle.

Even for accumulation funds, there are several proposed “Key Events” that may interrupt a 3-year audit cycle, including the addition or removal of a member, the acquisition of an asset from a related party, or the commencement and maintenance of a limited recourse borrowing arrangement.

For these reasons, The Tax Institute considers that the proposal outlined in the Discussion Paper is unlikely to reduce red tape for the SMSF sector.

The Tax Institute - Membership Feedback

Based on feedback from our members, we understand that it is unlikely that the proposal will be popular among trustees, auditors or accountants. In this regard, the primary concern raised by our members is the practical issues with collating the required documentation for the previous 3 years.

Further, based on the feedback of our members, it appears that the uptake of this optional proposal may be very small. If the proposal is not going to be implemented by a significant number of SMSFs, the costs and complexities of implementing the proposal are not justifiable.

The Tax Institute put four broad questions to our Superannuation Committee and our wider membership.

1. Do you support the proposal to move certain SMSFs to a 3-year audit cycle?

The overwhelming response from our members was that the proposal should not be supported due the practical issues with performing an audit once every 3 years for the past 3 years.

2. Please provide the reasons for your answer

The consensus from our members in relation to why the proposal should not be supported was based on practical concerns with obtaining relevant documentation which was no longer contemporaneous.

3. Within your client book, what percentage would you expect to qualify for self-assessment to adopt the 3-year cycle?

(The adoption of a 3-year audit cycle is not mandated. It is an option for funds that exhibit certain profiles.)

Our members’ responses ranged from 75-100% in relation to the percentage of their clients that they expected would qualify.

4. What impact would a change to a 3-year audit cycle for your SMSF clients have on your practice?

The majority thought none as the proposal was unlikely to be elected (ie their clients would not change to the 3-year cycle).

* * * * *

If you would like to discuss, please contact either me or Tax Counsel, Angie Ananda, on 02 8223 0011.

Yours sincerely

Tracey Rens
President