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Dear Sir/Madam

Expansion of Australia's tax treaty network

We refer to the Government's request for submissions on the key outcomes Australia should seek as it expands Australia's tax treaty network.

Aware Super welcomes the opportunity to provide a submission to Treasury's consultation as new tax treaty negotiations are entered into with Brazil, New Zealand, South Korea, Sweden and Ukraine.

Australian superannuation funds in tax treaties

As the Australian superannuation industry grows, so does the range and magnitude of foreign investments managed by large Australian superannuation funds, including Aware Super. Tax treaty considerations can significantly impact the competitiveness of Australian superannuation funds against foreign pension funds in the global market and can have real impacts on the retirement outcomes of all Australians.

As one of Australia's largest profit for member superannuation funds, we consider the best outcome for our members would be achieved by ensuring that new tax treaties are negotiated to ensure that Australian superannuation funds can clearly access the benefits available under the tax treaties.

In this regard, we submit that the following key items are addressed as part of the expansion of Australia's tax treaty network:

Clearly defining Australian superannuation funds as within the scope of the Tax Treaties

- To ensure that Australian superannuation funds fall clearly within the scope of the tax treaties, Australian regulated superannuation funds which have been established to administer or provide retirement benefits should be specifically included within the definition of "recognised pension fund" in Article 3 General Definitions.
- To reduce the potential administrative impost for Australian superannuation funds to access treaty benefits, clearly recognising Australian superannuation funds as "beneficial owners" of certain types of income (e.g. dividends (Article 10) and interest (Article 11)) will ensure application of the tax treaty rates is clear. This will also assist to minimise confusion in other jurisdictions as to the nature of Australian superannuation funds.
- Specifying Australian superannuation funds as a "resident" of a Contracting State in Article 4 Resident will also assist in ensuring Australian superannuation funds (as Australian taxpayers) fall within the scope of the Tax Treaties.

Providing a level playing field for Australian superannuation funds competing in overseas markets

- Specifically exempting the income of Australian superannuation funds from tax in the other country with respect to dividend income from portfolio interests in a company (Article 10) and interest income (Article 11) will support the continued growth and competitive positioning of Australian superannuation funds investing offshore. This would provide access to Australian superannuation funds to the same types of exemptions available to foreign pension funds investing in Australia. This is consistent with the tax exemption contemplated for pension funds in the OECD Model Treaty.

Clarifying the taxing rights for lump sum payments

- To ensure clarity over the taxing rights for lump sum payments made by Australian superannuation funds as a consequence of retirement, invalidity, disability or death or by way of compensation for injuries, lump sum payments should be included within the definition of “pensions” and thereby appropriately subject to withholding tax at source, in Australia (Article 17 Pensions).

We note that the abovementioned items were included in the recent *Convention between Australia and Iceland for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance*, signed 12 October 2022, [2023] ATS 10 (entered into force 6 November 2023) (“**Australia-Iceland tax treaty**”). Aware Super supports Treasury’s recent negotiations in the Australia-Iceland tax treaty and recommends that a consistent approach is adopted in its negotiations as it continues expansion of Australia’s tax treaty network.

Conclusion

Thank you again for the opportunity to provide a submission to the consultation on the further expansion of Australia’s tax treaty network. If you wish to further discuss any aspect of this submission, please contact Megan McBain on 02 8256 4344.

Yours sincerely



James Osborn

Chief Financial Officer

About us – Aware Super

Meet Aware Super - the multi-awarded super fund. We're here to help our members grow their savings, whether retirement is 2 or 20 years away. As one of Australia’s largest profit-for-members funds, we always remember whose money it is and whose future we’re looking after.

That means being super helpful in ways our 1.1m members want, and sometimes in ways they don’t expect. From super returns of 8.40% p.a.¹ over ten years for our High Growth option. To expert super advice and guidance for right now. We're committed to helping our members get more from their super, so they can get more for their future.

¹ Index median of 7.89% p.a. for the same period. Source: SuperRatings Fund Crediting Rate Survey (FCRS) 31 December 2023 (SR50 Growth (77-90) Index (approx. 50 options). Returns are after investment fees and costs, transaction costs, tax on investment income and any implicit admin fees. Past performance is not an indicator of future performance.