INSTITUTE OF PUBLIC ACCOUNTANTS®

Senate Economics Legislation Committee Inquiry Treasury Laws Amendment (2019 Tax Integrity and Other Measures No.1) Bill 2019

August 2019

Introduction

The Institute of Public Accountants (IPA) welcomes the opportunity to respond to Senate Economics Legislation Committee inquiry into **Treasury Laws Amendment (2019 Tax Integrity and Other Measures no.1) Bill 2019.**

The IPA is one of the three professional accounting bodies in Australia, representing over 37,000 accountants, business advisers, academics and students throughout Australia and internationally. The IPA prides itself in not only representing the interests of accountants but also small business and their advisors.

Please address any further enquires to Tony Greco, General Manager Technical Policy via [redacted]

15 August 2019

Senate Economics Legislation Committee
Committee Secretariat

Via email: economics.sen@aph.gov.au

Dear Sir/Madam

Inquiry into Treasury Laws Amendment (2019 Tax Integrity and Other Measures no.1) Bill 2019

The IPA welcomes the opportunity to provide this submission in response to the inquiry into the abovementioned Bill. Our particular focus in this submission relates only to Schedule 5 and 7 of the Bill.

Schedule 5 of this Bill amends the Tax Administration Act to allow taxation officers to disclose the business tax debt information of a taxpayer to credit reporting bureaus when certain conditions and safeguards are satisfied. The Bill refers to a legislative instrument that will determine whether a taxpayer can be subject to the new disclosure arrangements. In addition to the legislative instrument, the Australian Taxation Office (ATO) will shortly table their administrative approach to the disclosure of tax debt information to credit reporting bureaus (CRBs). At the time of writing, this document was not yet finalized; however, it will contain strict criteria that CRBs must adhere to under the reporting arrangement. The legislative instrument and the ATO administrative approach will be subject to separate consultation process.

The legislative instrument only allows the ATO to disclose this information when certain conditions and safeguards are met. We are satisfied that there are sufficient checks and balances in place to protect taxpayer rights in the event that information is disclosed to CRBs. After much consultation, the threshold for reporting purposes has been lifted from $10,000 to $100,000 of outstanding tax debts which significantly reduces the number of taxpayers that will be impacted by this new initiative. We recommend a post implementation review of the tax debt disclosure to CRB's especially if there is any intention that the debt threshold is reduced in the future. The

IPA understands and supports the underlying policy intent of increased transparency around tax debt information.

Schedule 7 of the Bill includes an integrity measure seeking to make following changes:

- prevent contributions made as part of a salary sacrifice arrangement from satisfying an employer's Super Guarantee (SG) obligations and;
- specifically include salary or wages sacrificed to superannuation in the base for calculating an employer's SG obligations.

The anomaly first surfaced in December 2016 when the Government established the Superannuation Guarantee Cross-Agency Working Group. This group's prime purpose was to investigate practical ways to improve employer compliance with their SG obligations. On 14 July 2017, the Minister for Revenue and Financial Services announced that the Government would amend the Super Guarantee (Administration) Act 1992 (SGAA) to implement recommendations made by the Cross-Agency Working Group to close loopholes that could be used by employers to short change employees who choose to make salary sacrifice contributions into their superannuation accounts.

The amendment was included in Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No.2) Bill 2017 which lapsed prior to the election.

As it currently stands, salary sacrificed amounts can count towards employer contributions that reduce an employer's mandated SG contributions. In addition, employers can calculate SG obligations on a (lower) post salary sacrifice earnings base. Employees who salary sacrifice to boost their superannuation savings may end up with lower superannuation contributions than they expect.

We suspect that not many employees scrutinise their annual superannuation statements. Some may look at their annual statement, see that the balance has risen (due to other factors such as investment incomes) and then file it away without checking the details.

Whilst we fully support the proposed amendment, we recommend that the loophole be closed effective from the start of this financial year namely 1 July 2019. Given the delay experienced to date in getting this loophole rectified, it warrants a retrospective start date to stop the legalised theft of superannuation from employees who are salary sacrificing super contributions.

The explanatory memorandum to the Bill does not explain why the measure has a delayed start date. Presumably to allow those who use the loophole to adjust their business practices. When someone undertakes a salary sacrifice into superannuation, they are attempting to provide sufficient savings to live more comfortably when they retire. They are sacrificing spending money today to build their nest egg which is a good thing as it means less reliance on Government support in retirement.

No one would undertake such a strategy if they knowingly knew that their hard-earned dollars were being used to offset their employer's SG obligations. It's counter intuitive to think otherwise. This situation needs to be rectified as quickly as possible to cease the opportunity for potential superannuation theft. It's ironic that whilst we are discussing an SG increase to 12 per cent, some employees will not be receiving the current 9.5 per cent while this loophole exists.

We trust that you will find our submission of value. Please feel free to contact us directly should you require further clarification on any of the issues raised or other questions related to our submission.

Yours sincerely

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