



**Australian Government**  
**Inspector-General of Taxation**  
**Taxation Ombudsman**

Telephone: (02) 8239 2111  
Facsimile: (02) 8239 2100

Level 6, 321 Kent Street  
Sydney NSW 2000  
GPO Box 551  
Sydney NSW 2001

16 September 2020

Senator Slade Brockman

Chair

Senate Economics Legislation Committee

Parliament House

CANBERRA ACT 2600

Dear Chair

**Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020**

The Inspector-General of Taxation and Taxation Ombudsman (**IGTO**) welcomes the opportunity to contribute to the Senate Economics Legislation Committee's (**Committee**) inquiry into the *Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020 (the Bill)*.

The IGTO is an independent statutory agency that investigates taxation administration systems and laws, as well as the actions and decisions made by Tax Officials - of the Australian Taxation Office (**ATO**) or the Tax Practitioners Board (**TPB**). The IGTO seeks 'to assure and ensure that there is fair, equitable, and transparent administration of the tax system consistent with community expectations.'<sup>1</sup> We also undertake tax investigations for the purpose of providing independent advice and assurance to Government on the taxation administration laws and systems.

The IGTO is not empowered to investigate or advise on tax policy matters. Accordingly, this submission does not provide any advice on the proposed law change.

**Reducing costs and simplifying tax administration**

In 2019, the IGTO developed and issued a draft framework on the features of good tax administration. The framework was updated following stakeholder feedback and is included in the IGTO's Corporate Plan 2021-24.<sup>2</sup>

---

<sup>1</sup> Inspector-General of Taxation and Taxation Ombudsman (IGTO), *Corporate Plan 2021 – 2024* (2020) p 5  
<<https://www.igt.gov.au/news-and-publications/corporate-plans>>.

<sup>2</sup> Ibid, p 11.

Relevantly, one of the key features of that framework is that the system should be administered in a way that is easy for taxpayers to meet their compliance obligations, aims to be simple to engage with and to minimise compliance costs. Specifically, that the system should minimise the compliance burden for the ATO and for taxpayers, minimise errors and mistakes, avoid duplication and minimise red tape.

The IGTO notes that the Bill will allow an increase in the maximum allowable membership of SMSFs and considers that this will improve tax simplification and reduce costs for the ATO and taxpayers alike.

In the main, and as noted in the explanatory memorandum to the Bill,<sup>3</sup> SMSFs are largely used by families and, at present, the only option for larger families wanting to have their investments and superannuation in an SMSF is to create multiple funds. This will invariably increase the compliance costs for those taxpayers.

Similarly, an unnecessary increase in the number of SMSFs will also create undue administrative and resource impacts for the ATO in educating and regulating the industry. ATO statistics show that, over a 20 year period from 1999 to 2019, the number of SMSFs in Australia has grown from 200,000 to 600,000<sup>4</sup>.

### **Simplification and the SMSF Supervisory Levy**

All SMSFs are required by law to pay an annual supervisory levy<sup>5</sup> (currently \$259)<sup>6</sup> to the ATO to cover the ATO's costs in educating and regulating the sector. Given that there are currently approximately 600,000 SMSFs, the ATO annually receives some \$155 million in levies.

The new law is likely to see a reduction in the number of SMSFs within the tax system which will correspondingly reduce the total revenue received by the ATO from the supervisory levy.

The Committee may be assisted in assessing the financial and regulatory impacts of the proposed law change, by making enquiries with the ATO regarding:

- any forecast reduction in the number of SMSFs as a result of the law change;
- the corresponding reduction in the total revenue raised from the SMSF supervisory levy; and
- the sufficiency of that revenue to enable the ATO to continue educating and regulating the SMSF sector.

---

<sup>3</sup> Explanatory Memorandum to Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020, p 5.

<sup>4</sup> Australian Taxation Office, *20 Years of Regulating Self-Managed Superfunds* (June 2019)

<sup>5</sup> *Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991*, s 6; *Superannuation (Self Managed Superannuation Funds) Taxation Act 1987*, s 15DA.

<sup>6</sup> *Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Regulations 2018*, Attachment, s 6.

### **SMSF complaints received by the IGTO**

We have undertaken a general keyword search for complaints relating to SMSFs. Since 1 May 2015, the IGTO has received approximately 200 complaints relating to SMSFs. A general review of the cases did not indicate any complaints about the allowable number of members within each SMSF.

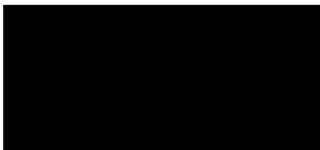
Examples of the issues raised in complaints relating to SMSFs include:

1. delays in receiving Australian Business Numbers (ABNs) for SMSF registration;
2. ATO audit processes in relation to SMSFs;
3. ATO audit decisions including decisions to cancel ABN registrations for SMSFs;
4. Incorrect or incomplete advice from the ATO regarding SMSFs;
5. delays in rolling over SMSF funds into industry superannuation funds;
6. ATO contacting incorrect or former trustees of SMSFs; and
7. amendment of applications for early release of superannuation benefits.

If the Committee is interested to gain a deeper understanding on the types of complaints that have been raised with the IGTO, we would be happy to provide a more fulsome briefing.

The IGTO thanks the Committee again for the opportunity to make this submission. If we may be of any further assistance to the Committee, please do not hesitate to contact me on [REDACTED]

Kind regards,



Karen Payne

Inspector-General of Taxation and Taxation Ombudsman