

NALI/E Timeline

The Joint Bodies have had many meetings with Ministerial Offices, Treasury and ATO officials concerning the issues with the non-arm's length expenditure rules. Our proposed solution utilising an amended version of section 109 of the *Superannuation Industry (Supervision) Act 1993* (Cth) was first raised on 2 March 2023.

Below, we have provided a detailed timeline of the meetings and correspondence sent by the Joint Bodies concerning the non-arm's length income rules.

9 May 2017 – Budget 2017/18: Government announce intention to amend law to “improve the integrity of the superannuation system by reducing opportunities for members to use related party transactions on non-commercial terms to increase superannuation savings

11 January 2018 – Treasury release consultation paper for “Superannuation Taxation Integrity Measures including exposure draft legislation

4 April 2018 – Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2018 introduced into House of Representatives

19 December 2018 – ATO release Law Companion Ruling (LCR) 2018/D10 - Non-arm's length income – expenditure incurred under a non-arm's length arrangement

11 April 2019 – ATO withdraw (LCR) 2018/D10

24 July 2019 – Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2019 introduced into House of Representatives

2 October 2019 – *Treasury Laws Amendment (2018 Superannuation Measures No. 1) Act 2019* receives Royal Assent

2 October 2019 – ATO publish LCR 2019/D3 - Non-arm's length income – expenditure incurred under a non-arm's length arrangement

9 September 2020 – CAANZ meets with Sen Jane Hume – NALI/E raised as issue of concern

14 December 2020 – ATO issue confidential draft changes to LCR 2019/D3 and TR 2010/1

28 July 2021 – ATO release LCR 2021/2 - Non-arm's length income – expenditure incurred under a non-arm's length arrangement (formal version of LCR 2019/D3)

18 August 2021 – Joint Bodies meet with Treasury to discuss our concerns about NALI/E

3 September 2021 – Joint Bodies (Chartered Accountants Australia and New Zealand, CPA Australia, The Institute of Public Accountants, The Tax Institute, The SMSF Association, The National Tax and Accountants Association, The Australian Superannuation Funds Association, The Actuaries Institute, Self-Managed Independent Superannuation Funds Association, The Financial Planning Association of Australia, and Tax & Super Australia) write to Sen Jane Hume requesting urgent changes to the NALI/E rules

7 September 2021 – Sen Hume's office acknowledges letter

16 September 2021 – Joint bodies meet with ATO officials about concerns with draft LCR 2021/2

29 October 2021 - Joint bodies send range of issues to ATO about draft LCR 2021/2

22 December 2021 – TTI write to Treasury about NALI/E concerns on behalf of joint bodies

22 December 2021 – Joint bodies send range of revised issues to ATO about draft LCR 2021/2

18 January 2022 – Joint bodies send range of revised issues about draft LCR 2021/2 to Treasury

22 March 2022 – Sen Jane Hume issues Press Release announcing government will amend the income tax laws “to ensure non-arm’s length expense provisions operate as intended”

28 April 2022 – Joint bodies write to Dr Chalmer’s office about NALI/E

April 2022 – Joint bodies write to ATO seeking extension of Practical Compliance Guide transition period for 2022/23

18 May 2022 – Joint bodies meet ATO large fund representatives to discuss how NALI/E may apply to such funds

24 May 2022 – Joint bodies meet with ATO representatives

31 May 2022 – Joint bodies write to ATO with draft release to communicate to joint bodies memberships

28 June 2022 – Joint bodies meet with Treasury representatives

1 July 2022 – Joint bodies meet ATO representatives to discuss tax implications of trustee fees

25 August 2022 – Joint bodies write to Treasury about urgent need to NALI/E changes

29 August 2022 – Sub-group (including representatives of APRA funds, Richard Webb (CPAA), Tony Negline (CA ANZ), Andrew Mills (TTI), Julia Stannard (ASFA) and professional firms (KPMG, PwC, Deloitte and EY)) meet with ATO to discuss issues related to APRA funds and present “Base case scenario” document.

21 September 2022 – Sub-group (including representatives of APRA funds, Richard Webb (CPAA), Tony Negline (CA ANZ), Andrew Mills (TTI), Julia Stannard (ASFA) and professional firms (KPMG, PwC, Deloitte and EY)) meet with ATO and APRA regarding NALI and best financial interests duty.

24 January 2023 – Treasury publishes NALI/E consultation paper; Minister Jones issues press release on same day

17 February 2023 – Joint bodies meet Treasury about exposure draft consultation paper

21 February 2023 – Joint bodies write open letter to Minister Stephen Jones about NALI

2 March 2023 – Joint bodies provide potential solutions to NALI problems using preferred solution

12 April 2023- CA ANZ sent Ministerial briefing notes to all members of the HoR and Senate on behalf of the joint bodies CA ANZ, CPAA, IFPA, IPA, NTAA, SMSFA, TTI

14 April 2023- Tony Negline (CA ANZ) and Scott Treatt (TTI) met with Paul Fletcher MP in Sydney

20 April 2023- Ainslie Van Onselen & Tony Negline (CA ANZ), Gary Pflugrath, Michael Davison, Richard Webb (CPAA), Peter Burgess (SMSFA), Scott Treatt (TTI), Natasha Panagis (IFPA), Siobhan Simpson (NTAA) had a Teams meeting with the Asst. Treasurer Stephen Jones

09 May 2023- Tony Negline (CA ANZ), Michael Davison (CPAA), Tracey Scotchbrook (SMSFA) met with Senator Andrew McLachlan in Canberra

09 May 2023- Tony Negline (CA ANZ), Michael Davison (CPAA), Tracey Scotchbrook (SMSFA) met with Senator Andrew Bragg in Canberra

11 May 2023- Sarah Davidson (CA ANZ) briefed Nick Green, Deputy Chief of Staff of Brendan O'Connor MP in Canberra.

21 June 2023 - Treasury publishes exposure draft NALI/E legislation

07 July 2023- Joint bodies (CA ANZ, CPAA, IPA, SMSFA & TTI) made a joint submission on Treasury Laws Amendment (Measures for Consultation) Bill 2023: Non-arm's length expense rules for superannuation.

27 July 2023- Had a Teams meeting with ATO representatives Kendrick Yim & Ivica Bolonja re: TD 2023/D1. Tony Negline & Nelu Anthony (CA ANZ), Richard Webb (CPAA), Robyn Jacobson (TTI) and Tracey Scotchbrook (SMSFA)

31 July 2023- Joint bodies (CA ANZ, CPAA, IPA, SMSFA & TTI) made a submission to the ATO on TD2023/D1, how the NALI & CGT tax provisions interact to determine the amount of statutory income that is NALI.

31 July 2023- Emailed Adam Hawkins at the Treasury, the joint submission sent to ATO on TD2023/D1 explaining that there is an issue in the way the method statement in Sec 102-5 of the ITAA '97 interacts with Sec 295-550 of the ITAA'97.

13 September 2023- Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 was introduced to the Parliament with schedule 7 of the Bill containing NALI/E for superannuation funds.

19 October 2023 – The Senate referred the provisions of Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 to the Senate Economics Legislation Committee for inquiry.

27 October 2023- Joint bodies (CA ANZ, CPAA, IPA, SMSFA & TTI) made a joint submission to the Committee.

13 November 2023- Joint bodies (CA ANZ, CPAA, IPA, SMSFA & TTI) and IFPA appeared as witnesses for the Senate Enquiry. Attendees Tony Negline, Richard Webb, Tony Greco, Peter Burgess, Julie Abdalla and Phil Broderick respectively.