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By email: dalila.vellotti@ato.gov.au

Dear Dalila

Re: Consultation paper – Streamlining transfer balance cap ('TBC') event-based reporting arrangements for Self-Managed Super Funds ('SMSFs')

The National Tax and Accountants' Association Ltd ('NTAA') appreciates the opportunity to be part of, and to provide comments in relation to, the ATO's consultation on streamlining the existing TBC event-based reporting arrangements for SMSFs.

The NTAA is a national non-profit association, which currently represents the interests of (and is dedicated to providing support to) almost 10,000 member firms, including tax agent practices, taxation accountants and business advisers.

The NTAA provides the following comments in relation to the consultation questions raised by the ATO in its consultation paper: *Streamlining transfer balance cap event-based reporting arrangements for self-managed super funds*.

Concerns about the ATO's proposal to streamline the TBC event-based reporting arrangements for SMSFs

The ATO proposes to streamline the event-based reporting arrangements for SMSFs by removing the existing two-tiered reporting approach and replacing it with the requirement that **all SMSFs report most TBC events** (e.g., the commencement of a pension in retirement phase) **within 28 days after the end of the quarter in which the event occurred**.

Under the existing two-tiered reporting approach:

- SMSFs whose members have a total superannuation balance of less than $1 million can choose to report most TBC events at the time the fund is due to lodge its annual return; and
- all other SMSFs are required to report most TBC events within 28 days after the end of the quarter in which the event occurred.

Although the NTAA appreciates that streamlining the existing two-tiered approach will provide certain benefits (e.g., it will simplify the TBC reporting arrangements for SMSFs and will provide more timely and accurate transfer balance account information resulting in reduced excess transfer balance tax liabilities), the proposal will create an additional reporting burden for SMSFs which have all members with a total superannuation balance of less than $1 million.

Furthermore, under the streamlined reporting approach, more SMSFs may find that they may need to re-report the commencement of a retirement phase pension when they finalise their accounts after year-end. This is because many SMSF trustees are unable to accurately determine the value of a retirement phase pension commenced during an income year until the fund's annual return is lodged after year-end. In these situations, although SMSF trustees will generally be able to report such a pension during the year (i.e., within 28 days after the end of the quarter in which the pension commenced) based on a reasonable estimate, where this estimate differs from the value determined after year-end, trustees would generally be expected to re-report the commencement of the pension. This would involve amending a previously lodged Transfer Balance Account Report ('TBAR') in respect of the pension.

The commencement date of the proposal – Should the ATO's proposal commence from 1 July 2022 or 1 July 2023?

Given that the closing date for comments in relation to the consultation process on this proposal is not until mid-January 2022, this proposal may not be finalised until at least February 2022.

As this is leading into the busiest period of the 2021 tax season (i.e., from February 2022 to June 2022) for many practitioners (especially for smaller accounting practices), the NTAA believes that it would be prudent for the ATO to defer the application of any changes to the existing TBC reporting requirements **until 1 July 2023**, in order to avoid an increased risk of non-compliance.

Furthermore, the NTAA would strongly encourage the ATO to take a concessional compliance approach for the first 12 months after any changes to the existing TBC reporting requirements are implemented, by assisting (including educating) SMSF trustees to comply with any new reporting requirements rather than focusing on the imposition of late lodgment penalties. This would be consistent with the approach taken by the ATO when the TBC event-based reporting requirements were first introduced from 1 July 2018.

In the future, should TBC events be reported more frequently by SMSFs (e.g., within 10 days or 28 days after the end of the month in which the relevant event occurs)?

The NTAA believes that the requirement to report most TBC events on a quarterly basis under the proposed reporting approach should be sufficient to provide appropriate up-to-date and accurate transfer balance account information, whilst also having the effect of significantly reducing excess transfer balance tax liabilities.

Imposing more frequent reporting requirements for SMSFs in respect of TBC events will impose an unnecessary compliance burden upon SMSFs, resulting in a significantly increased risk of non-compliance with the TBC reporting rules.

Yours faithfully

Geoff Boxer
Chief Executive Officer
NTAA