Submission on Self Managed Super Fund Taxation

I understand that the ATO is concerned about many Self Managed Super Funds (SMSF) being late with their Tax and Financial Returns. As a Trustee of an SMSF, I believe that there are a number of reasons for this which are amenable to improvement by simple means. The essence of my proposals is to treat SMSFs more like individuals rather than like companies.

For individuals, dividends and distributions are treated as income in the tax year in which they are actually paid while for SMSFs they are treated as income in the year to which they relate. As an example, I am aware of a particular share for which the Final Dividend for the 2007/8 year was not paid until April 2009 which makes this policy a farce and would certainly contribute to SMSFs not being able to meet their return deadlines.

While the minimum pension that can be paid in a tax year is based on the value of the fund at the start of the tax year, the split between taxable and tax free components is based on the components at the end of the tax year. This again causes delays to both the SMSF and trustee tax and financial returns.

The requirement to complete IAS forms each quarter also appears irrelevant as the only information which we enter is the amount of account based pension paid in the quarter, which is resubmitted in the Tax and Finance Return s.

I was also disappointed to receive the ATO June 2009 letter (and other documentation) entitled “Income tax withholding rates and thresholds will change from1July 2009”. This letter appeared to be purely related to companies and totally irrelevant to SMSFs.

In the 2008/9 year, I reached my [removed for privacy reasons] birthday. I did not receive any pension from the SMSF in 2008/9 until after my birthday. However, we still have to go through the full process of having a tax return prepared for the SMSF before the PAYG summary can be issued even though it will be totally irrelevant. This would be less important if we did not have to wait for the tax statements for dividends etc, many of which were not actually paid in the 2008/9 year.

When making investments and opening bank accounts (in particular, Term Deposits), the form of name required by the ATO is extremely cumbersome. In our case, it is “ADMA Superannuation Fund”.

I would therefore propose:

1. Allocate dividends and/or distributions to SMSFs as income in the tax year in which they are actually paid.
2. Calculate the split between taxable and tax free pension components at the start of the tax year for the pension.
3. Eliminate the need for SMSFs to complete quarterly IAS forms.
4. Simplify the reporting requirements for the pension accounts of retired people aged between 55 and 60 (especially in the year when they turn 60).
5. Recognise that SMSFs are not companies and that they are mostly small entities. It may be necessary to have some upper limit on the assets of a fund to qualify for the improved treatment. Such a limit would be in the order of a few million dollars.
6. Allow investments and bank accounts to be in the name of the SMSF rather than requiring the names of the Trustees to be included in the name.

None of these proposals appear to involve any loss of tax to the ATO although the main proposal of when dividends etc are counted as income would involve the postponement of some tax into the next tax year when the change is made.

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