30 July 2012

The General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: cgt_minoramendments@treasury.gov.au

Dear Madam/Sir,

The Self Managed Superannuation Funds Professionals' Association of Australia ("SPAA") welcomes the opportunity to make a submission in relation to the proposed minor amendments to the capital gains tax (CGT) law. SPAA were particularly interested in the measures which broaden the CGT exemption for certain insurance policies owned by a complying superannuation entity and the amendments to CGT event K3.

About SPAA

SPAA is the peak professional body representing the self managed superannuation fund (SMSF) sector throughout Australia. SPAA represents professionals, irrespective of their personal membership and professional affiliations, who provide advice to individuals aspiring to higher levels of participation in the management of their superannuation savings. Membership of SPAA is principally accountants, auditors, lawyers, financial planners and other professionals such as actuaries.

SPAA is committed to raising the standard of professional advice and conduct in the SMSF sector by working proactively with Government and the industry. In doing so, SPAA has contributed to SMSF advisors providing a higher standard of advice to SMSF trustees. This in turn has enabled trustees to make more informed decisions addressing the adequacy, sustainability and longevity of their own retirement savings. SMSFs offer trustees greater control and flexibility and have become an integral part of the Australian Superannuation landscape by providing significant and viable options for managers, business owners, executives and retail operators alike.

The proposed amendments

SPAA have reviewed the proposed changes from a SMSF perspective and believe that there are no adverse outcomes for SMSF trustees, members and their advisors.

The proposed changes to ensure that proceeds paid from insurance policies that were treated as being CGT exempt prior to the 2011-12 Budget changes (which consolidate the sections 118-37 and 118-300 CGT exemptions) continue to be CGT exempt. This proposed amendment ensures that superannuation funds that followed an industry practice and an ATO administrative practice that brought about sensible tax outcomes will not be unfairly penalised. Accordingly, SPAA

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supports this sensible amendment. Our only suggestion would be to clarify that the relevant claim proceeds received by superannuation trustees fall within the CGT code and not within the exclusion referred to in subparagraph 295-85(3)(b)(iv), otherwise the CGT exemptions would not be available for SMSFs or other superannuation funds.

Similarly, SPAA believes that he proposed amendment to CGT event K3 is a sensible approach to taxing CGT assets that shift from a deceased estate to a tax-advantaged entity, such as a superannuation fund. The proposed method of causing the tax liability of CGT event K3 happening to lie with the entity responsible for passing the asset to the concessionally taxed entity is practical and administratively effective. SPAA believes that the proposed treatment will simplify the administration of deceased estates and transfer of assets into the superannuation environment for administrators, advisors and trustees.

SPAA supports both the proposed changes discussed in this submission.

We would be happy to provide further information or to discuss our submission with you in more detail if need be.

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Mr. Peter Burgess
Technical Director

Yours sincerely

Andrea Slattery
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