

National Tax & Accountants' Association  
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South Melbourne, VIC, 3205

5 December 2012

General Manager  
Retail Investor Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [futureofadvice@treasury.gov.au](mailto:futureofadvice@treasury.gov.au)

**Re: Consultation regarding the Exposure Draft legislation  
Accountant's exemption replacement regulations for the new limited license**

Dear Sir/Madam,

We refer to the announcement by the Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations (The Hon Bill Shorten MP – 'the Minister') regarding the release of (and commencement of consultation on) draft regulations that will introduce a new limited Australian Financial Services Licence ('AFSL') to replace the existing accountant's exemption for providing advice in relation to Self Managed Superannuation Funds ('SMSFs'). Please refer to The Minister's Media Release No.84 of 28 November 2011.

Our submission focuses on the concluding comments of Media Release No.84, where the Minister invited submissions to address the issue of whether other professional qualifications could also form part of the streamlined arrangements for the new AFSL from 1 July 2013 to 30 June 2016.

In this regard, the National Tax & Accountants' Association ('NTAA') requests that Fellows of the National Tax Agents' Association Ltd ('NTAA+') be included as one of the nominated category of accountants (i.e., as a 'recognised accountant') for the purposes of both the following:

- The existing accountants' exemption (or 'carve-out') under Reg 7.1.29A of the *Corporations Regulations 2001* (which is due to expire on 30 June 2016 based on the draft regulations); and
- The proposed streamlining arrangements for accountants under the new limited AFSL from 1 July 2013 to 30 June 2016 (i.e., under which an 'exempt licensee' will only be required to maintain knowledge of the financial services covered by the new licence and will not be required to initially satisfy the organisational competency requirement).

The above request reflects similar recognition in Reg 1.04(2) of the *Superannuation Industry Supervision ('SIS') Regulations 1994* (and Item 5 of Schedule 1AAA to the SIS Regulations), which allows a Fellow of the NTAA to act as an approved auditor of an SMSF (please see below regarding the relationship between Fellows of the NTAA and Fellows of NTAA+).

Currently, the draft regulations recently issued by the Minister (and the existing accountants' exemption in Reg 7.1.29A of the *Corporations Regulations 2001*) only include as a 'recognised accountant' those persons holding a Public Practicing Certificate (or Certificate of Public Practice) issued by the Institute of Chartered Accountants in Australia ('ICAA'), CPA Australia Ltd or the Institute of Public Accountants ('IPA').

Previous communications (verbally and via email) have already taken place between the NTAA and Treasury in relation to the above request. Therefore, this submission further complements and formalises these prior communications.

## **Background to the NTAA and to NTAA+**

The NTAA is a national non-profit association that was formed in 1992 as a support group for both tax agents and business taxpayers.

The following overview provides a greater insight into the prominence of the NTAA's (including NTAA+) role in the tax and superannuation industry:

- (a) The NTAA is strictly dedicated to helping accountants, tax agents, tax advisers, and people in business solve tax and business/legal problems and has developed industry wide acclaim for the quality of its technical support.
- (b) The NTAA is a member based organisation with its committed goal being to provide accurate up to the minute practical and simple tax guidance to assist accountants, tax agents, and their support personnel within their respective practice or business.
- (c) Core services provided by the NTAA include a pro-active assistance service (via a tax 'Hotline'), development and operation of nation-wide tax and superannuation seminars, and the representation of members' interests by liaison with State and Federal Governments, and by participation on the Tax Office's peak tax forums through the National Tax Liaison Group (NTLG forums).
- (d) The NTAA now proudly represents in excess of 8,000 member firms, which in turn represent tens of thousands of public accountants in practice (attending to the needs and wants of hundreds of thousands of consumers), subscribing to the NTAA, attending NTAA seminars and purchasing up to the minute updates and information via NTAA publications.
- (e) In fact, the NTAA is one of the premier providers of tax seminars in the country and, in particular, the NTAA's Super Schools seminars (conducted during September and October each year) are always extremely well-attended by accountants and other advisors in the superannuation industry who are keen to keep up-to-date with the latest in superannuation compliance and taxation issues.
- (f) Whilst some other accounting associations have larger memberships, the NTAA believes that two factors in particular differentiate their members from those of other associations:
  - Membership of other mainstream accounting associations is on an individual basis, whereas membership of the NTAA (though not Fellowship) is on a business firm basis; and
  - Members of the other accounting associations are primarily concentrated within the corporate sector, whereas member firms of the NTAA are almost entirely accountants operating within public practice.
- (g) Individual NTAA members who meet strict eligibility criteria may apply to be accepted as an NTAA Fellow, and, should their application be successful, operate as a recognised public accountant under an NTAA practicing certificate.
- (h) Fellows of the NTAA who meet further eligibility criteria may then apply for stapled membership to NTAA+ (i.e., the National Tax Agents' Association Ltd) and be known as a Fellow of NTAA+. Fellows of NTAA+ operate as public accountants under an NTAA+ practicing certificate. NTAA+ is a recognised tax agent association ('RTAA') pursuant to the *Tax Agent Services Act 2009* and *Tax Agent Services Regulations 2009*, as administered by the Tax Practitioners' Board ('TPB').
- (i) Fellows of both the NTAA and NTAA+ need to satisfy a code of conduct and are subject to disciplinary action for any breaches.

We submit that not only will the inclusion of Fellows of NTAA/NTAA+ in both the existing carve-out under Reg 7.1.29A of the *Corporations Regulations 2001* and the proposed streamlining arrangements for accountants regarding the new limited AFSL provide consistency with the existing recognition they have for other purposes (refer for example to Reg 1.04(2), and Item 5 of Schedule 1AAA, of the SIS Regulations), but this is an ideal opportunity to provide a more even playing field and *also* provide recognition to those accountants in public practice who have qualified to hold a practising certificate with the pre-eminent accounting association representing accountants in public practice.

If accepted, our submission would require only simple changes to the regulations, suggested as follows:

- Modifying the definition of ‘recognised accountant’ in both regulations 7.6.01BA and 7.6.04 of the proposed *Corporations Amendment Regulation 2013* (and, consequently, the *Corporations Regulations 2001*) to add new paragraph (iii) under paragraph (b) of the definition in each case (i.e., after “holds a Public Practice Certificate issued by:”), as follows:

“(iii) the National Tax Agents' Association Ltd.”

- Modifying the definition of ‘recognised accountant’ in regulation 7.1.29A of the *Corporations Regulations 2001* to add the following paragraph (d):

“(d) a Fellow of the National Tax Agents' Association Ltd ( NTAA+) who:  
(i) is entitled to use the letters 'FNTAA' or 'NTAAF'; and  
(ii) is subject to, and complies with, NTAA+'s continuing professional education requirements.”

Yours faithfully

Riley Jones  
Legal Counsel (for and on behalf of the NTAA and NTAA+)