16th October 2024

Director
Personal Deductions and Fringe Benefits Tax Unit
Treasury
Langton Cres
Parkes ACT 2600

Email: deductions@treasury.gov.au

Dear Sir/Madam

SMSF ASSOCIATION SUBMISSION: DENY DEDUCTIONS FOR THE GENERAL INTEREST CHARGE AND SHORTFALL INTEREST CHARGE

The SMSF Association welcomes the opportunity to provide this submission to the consultation on *Deny deductions for the general interest charge and shortfall interest charge*.

The SMSF Association does not support denying deductions for the general interest charge and shortfall interest charge. We are concerned about the impact these proposed amendments will have and question the need for this measure.

The existing penalty regime is designed to deter late lodgements, reckless or intentional wrongdoing in respect of a taxpayer's obligations. Noting that such penalties are not insignificant, and quite appropriately, are not tax deductible.

We support the general obligation for all taxpayers to correctly self-assess their income tax liability and pay their tax on time. However, we are concerned that denying deductions for the general interest charge (GIC) and shortfall interest charge (SIC) will have significant and negative consequences on thousands of taxpayers already straining under cost-of-living pressures, including many small businesses struggling with cash flow and to meet their obligations.

Many of these small businesses are still recovering from the financial impact of the COVID-19 pandemic, where notably during that time the Government and the ATO supported tax repayments being delayed or flexible payment arrangements. If these businesses understood it was the Government's intention to remove the deduction in the near future, many of them may have made different financial decisions at that time.

Taxpayers who proactively and genuinely engage with the Commissioner to implement a formal payment arrangement are subject to general interest charges on their outstanding balances. This is despite a formal arrangement between the Commissioner and the taxpayer, and the taxpayer's compliance with that arrangement. To deny the tax deductibility of these interest charges, given the circumstances is particularly harsh.

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The explanatory materials infer that the change in tax deductibility will encourage greater compliance by taxpayers under the self-assessment system. We are concerned that this measure may in fact act as a deterrent for taxpayers to amend an assessment where they discover an error or an omission in a previous year's return.

While we understand that the Commissioner will still have the discretion to remit the interest charges where it is fair and reasonable to do so, the circumstances where this will be considered are very limited. It is therefore unlikely to be an option for many impacted taxpayers. It may however drive an increase in demand for Commissioner discretion. Any increase in demand will negatively impact ATO resources, leading to poor outcomes, and taxpayer experiences, adding to existing stress and concerns.

We are concerned by the reference to the use of 'free loans' by taxpayers in the Explanatory Materials. The majority of taxpayers strive to do the right thing and ensure they are complying with their obligations. However, tax laws are complex and nuanced, with the application of the law often dependent on the taxpayer's individual circumstances. Denying the ability to claim a deduction will only be seen as a penalty being imposed for trying to do the right thing. This will not encourage early and open conversations with the ATO where the taxpayer identifies an issue, rather, it will likely discourage it. Taxpayers should be encouraged to continue to actively engage with the Commissioner, with the current policy settings retained to support the integrity of the tax system.

It is our recommendation that these proposed amendments do not proceed.

If you have any questions about our submission, please do not hesitate to contact Tracey Scotchbrook, Head of Policy and Advocacy via email [redacted] .

Yours sincerely,

Peter Burgess
Chief Executive Officer

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.