

Submission number: 2014/03

24 January 2014

RE: Draft Taxation Ruling TR 2013/D7 – Income Tax: Apportionment of expenses incurred by a superannuation entity only partly in gaining its assessable income

ASFA responded to the ATO's request for comments on draft Taxation Ruling TR 2013/D7, which deals with the apportionment of expenses by superannuation entities noting the intent is for this ruling to replace the content in Taxation Ruling TR 93/17 to the extent that TR 93/17 deals with apportionment.

ASFA, whilst supportive of the proposal to update TR 93/17, is concerned with the prospect that the content of TR 93/17 is to be spread across two rulings and that, rather than being reviewed as a whole, two review processes will be undertaken.

In general comments ASFA notes that in early 2013 the ATO sought comments on the scope of the proposed content for a replacement Ruling for TR 93/17 and ASFA responded with strong support for the proposal to expand the content of TR 93/17 and provide examples as to how the law applies. ASFA is concerned with the piecemeal approach being adopted and has a strong preference that the outcome of this consultation process be incorporated into the proposed March 2014 consultative process, thus providing the industry with the opportunity to comment on a comprehensive rewrite of TR 93/17.

In specific comments ASFA:

- Expresses general agreement with the approach adopted by the draft ruling, noting that there is minimal deviation from the position set out in TR 93/17 and that some useful examples have been included.
- Raises some cost of compliance concerns.
- Raises concerns with the distinction made between assessable and non-assessable contributions in the included examples
- Recommends that the ruling clearly sets out that the basic principle on apportionment is that 'the method to be adopted is that which gives a fair and reasonable assessment in the circumstances of the extent to which those expenses relate to gaining or producing the superannuation entity's assessable income'.