

Submission number: 2014/33

10 October 2014

**ATO: ATO Consultation on Limited Partnerships**

In a submission to the Australian Taxation Office (ATO) in response to the request for comments in respect to the 12 September 2014 consultation paper: *Summary of industry concerns and issues, raised in the consultation process, in relation to the operation of sections 94L and 94M of the Income Tax Assessment Act 1936* ASFA placed on the record its appreciation of the ATO's willingness to continue to consult with industry on this matter in pursuit of a resolution that is acceptable, as far as is possible, to all parties.

The ASFA submission notes the uncertainty in the industry relating to the application of Division 5A of the *Income Tax Assessment Act 1936 (ITAA 1936)* when calculating the taxable income arising from investments in limited partnerships.

ASFA supports the ATO review of the application of the Division 5A provisions with a view to providing greater certainty to taxpayers and called for any guidance to be practical and efficient.

ASFA requests that any ATO guidance have prospective application to new acquisitions as a change in taxation treatment in respect of existing limited partnership investments may give rise to permanent tax differences due to the 4 year limitation period for amendment of investor's assessments.

Amongst other things the submission:

- addresses the practical issues the industry has identified with limited partnerships and set out the issues identified by industry with the interaction between sections 94L and 94M of the Income Tax Assessment Act 1936
- Acknowledges that Funds may be more likely to apply section 94L than subsection 94M(1) when calculating their assessable income in respect of limited partnership interests due to the fact that section 94L is more likely to be applicable in most instances.
- Recommends that the ATO provide guidance on the operation and interaction of sections 94L and 94M and in particular to what is meant by the term "credited".