



31 May 2024

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By email: [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au)

Dear Ms Harris,

**SMSF ASSOCIATION SUBMISSION – DRAFT TPB(I) D53/2024 – BREACH REPORTING UNDER THE TAX AGENT SERVICES ACT 2009**

The SMSF Association welcomes the opportunity to provide this submission in response to the Tax Practitioner Board's draft guidance TPB(I) D53/2024 – Breach reporting under the *Tax Agent Services Act 2009*.

The breach reporting provisions will present a number of challenges for registered tax agents (RTA) when accepting new client engagements. It is uncertain the extent to which agents will be required to conduct due diligence on the work performed by the previous agent. Often the issue will be whether the agent holds or has access to sufficient data or information to identify a breach or a potential breach. Conversely, where cloud software data for a client is transferred from one agent to another, it may be a case of too much information.

It would be helpful to understand to what extent RTAs will be required to in effect 'audit' data for cloud-based software transferred for a client from one RTA to another. The transfer of data files is common practice for SMSFs and is a growing trend in other areas of practice.

SMSF software contains crucial, quite detailed, and extensive historical data which effect the tax elements of member accounts, cost bases of assets and pension commencement details to name a few. All of which can have significant future tax and compliance impacts. With regards to pensions, the type of pension interest can impact how they are cashed or commuted.

A strong reliance is placed on the data received between practitioners as there can be significant work involved where key historical details need to be reconstructed. Accessing the necessary information can often be difficult, time consuming and costly.



RTAs are not auditors and are not ordinarily required to conduct an audit of their client's information.

Despite SMSFs being audited annually, that audit extends only to the funds financial statements and compliance with prescribed sections or regulations of the *Superannuation Industry (Supervision) Act 1993* (Cth) and *Superannuation Industry (Supervision) Regulations 1994* (Cth) respectively. The auditor is not required to conduct an audit of the software platform or SMSF Annual Return lodged with the Commissioner of Taxation.

The question asked by our members is to what extent is the RTA expected to re-examine this historical information? While this will be an issue for practitioners with SMSF clients, this has broader implications across a range of taxpayers, particularly as tax and accounting software continues to evolve, providing richer, transferrable data.

If you have any questions about our submission, please do not hesitate to contact us, and we thank you again for the opportunity to provide this submission.

Yours sincerely,

Tracey Scotchbrook  
Head of Policy and Advocacy

#### **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.