



THE TAX INSTITUTE

15 August 2017

Ms Tina Smith
Manager
Small Business Entities and Industry Concessions Unit
Treasury
Langton Crescent
PARKES ACT 2600

By email: TaxAdminRegs2017@treasury.gov.au

Dear Ms Smith,

Taxation Administration Regulations 2017

The Tax Institute welcomes the opportunity to make a submission to Treasury in relation to *Taxation Administration Regulations 2017* Exposure Draft and associated Explanatory Material.

We understand the purpose of the Exposure Draft is to “remake and improve the *Taxation Administration Regulations 1976* before they ‘sunset’¹”. Later, at p1, the Explanatory Material provides:

These changes are not intended to affect the substantive meaning or operation of the provisions.

So far as we can determine, there is nothing to give effect to this in the Exposure Draft. Accordingly, we recommend that an express provision be inserted into the Exposure Draft ensuring that remaking of the regulations does not have a material effect on their meaning. We note that there is precedent in the *Income Tax Assessment Act 1997* (Cth) in section 1.3 which we have extracted below:

Differences in style not to affect meaning

- (1) This Act contains provisions of the [Income Tax Assessment Act 1936](#) in a rewritten form.
- (2) If:
 - (a) that Act expressed an idea in a particular form of words; and
 - (b) this Act appears to have expressed the same idea in a different form of words in order to use a clearer or simpler style;the ideas are not to be taken to be different just because different forms of words were [used](#).

Note: A public or private ruling about a provision of the [Income Tax Assessment Act 1936](#) is taken also to be a ruling about the corresponding provision of this Act, so far as the 2 provisions express the same ideas: see section 357-85 in Schedule 1 to the *Taxation Administration Act 1953*.

¹ P1 of the Explanatory Material

We suggest the same or similar wording should be included in the Exposure Draft to ensure it is clear that there is no intention to change the meaning of the regulations except if this has been specifically provided. In our view, it is insufficient to rely on the statements in the Explanatory Material for this purpose.

If you would like to discuss any of the above, please contact either myself or Tax Counsel, Stephanie Caredes, on 02 8223 0059.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Matthew Pawson', with a stylized, flowing script.

Matthew Pawson
President