

Friday 28 February 2025

Director, Governance and Integrity Policy Unit
Law Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: taxsecrecyreview@treasury.gov.au

Dear Treasury,

Joint Submission - Review of Tax Regulator Secrecy Exceptions

Nine members of the Joint Associations Working Group (JAWG), comprising the associations listed below, welcome the opportunity to provide feedback to Treasury in response to the consultation on the Review of Tax Regulator Secrecy Exceptions.

This submission predominantly relates to 'Section 4.2 – Financial Advisers' of the consultation paper with respect to access to the ATO Portal, which is an issue of particular importance to our members. Some of the JAWG entities may be submitting separate submissions that address broader issues.

The JAWG is strongly supportive of providing access to the ATO portal for financial advisers, which we believe will benefit financial advisers and their clients. This is an issue that a number of JAWG members have advocated for over a long period of time, and we therefore welcome Treasury's active consideration of this issue.

General Comments

JAWG provides the following general comments about this proposal:

- There are substantial client and business benefits in enabling financial adviser access to the ATO Portal.
- Financial advisers are recognised in the law as providers of taxation advice (Qualified Tax Relevant Providers) and therefore it is appropriate that they have access to client tax and superannuation data to assist in the provision of this tax advice.
- Security of data is critically important, however, this is already an existing obligation of financial advice practices that collect and retain sensitive personal data on their clients. The risks with respect to this issue are no greater for financial advisers than for tax agents and BAS agents. Financial advisers should be able to meet the information technology and client identification requirements that the ATO requires tax practitioners to uphold and these are accepted as preconditions for financial adviser access.

The cost of ATO system changes has been proposed as a significant hurdle in allowing financial advisers to access the portal. Government funding is already urgently required to address resource constraints within the ATO that are negatively impacting ATO service standards and the ability to use online services for existing tax practitioners. Additional funding is needed to improve service standards for existing tax practitioners and to provide financial advisers with access to the portal.

The Benefit of Financial Adviser Access to the ATO Portal

ABS records indicate that over 130,000 Australians retire each year. There are many more in the years leading up to retirement who are preparing for retirement and a lot of them will seek financial advice to assist them in this process. These numbers will continue to increase as the population ages. When a financial adviser is working with a client to provide them with advice, including with respect to retirement, they need to do a complete fact find exercise to discover all the financial, tax, social security and family information that is relevant to that client. Understanding taxable income and the sources of that income is critically important. Superannuation is typically the largest financial asset people have, so understanding what accounts they have, how much they have and what contributions have previously been made is essential. Since the introduction of the Transfer Balance Cap and Total Superannuation Balance measures, knowledge of this information is absolutely critical to avoid the risk of providing inappropriate advice. Obtaining this information can be particularly challenging for clients and advisers, resulting in a material cost to each. The provision of this information to the adviser, via following up superannuation funds or through the client accessing the my.gov.au system and the provision of this information to the adviser via email, can result in a significant risk of cyber threat and administration time and costs for the advisers and for the superannuation funds providing this information.

It is of relevance to note that three of the last four disciplinary actions by the [Financial Adviser disciplinary body](#) against financial advisers have been based upon mistakes with respect to super contributions, where the adviser had failed to understand all existing funds, previous contributions or contribution limits. Whilst it is not necessarily the case that access to the ATO Portal would have avoided these mistakes, it is very likely that it would have provided substantial benefit in doing so. The point being, that access to the particularly important information in the ATO Portal plays a critical role in ensuring that the financial advice is both appropriate and compliant, and that risks to consumers are minimised.

Protection of Client Data

We acknowledge the importance of data protection and cyber risk. This issue has been particularly relevant to the financial advice profession, having been highlighted by cases that the Australian Securities and Investments Commission (ASIC) took against financial advice licensees as early as 2020.

ASIC requires Australian Financial Services (AFS) Licensees to adequately manage cybersecurity risks as part of their licence obligations, including adopting good cybersecurity risk management practices, active management of cyber risks and continuous cybersecurity improvement.

The protection of client data is not a new issue for financial advice firms. As discussed above, they need to collect very sensitive information as part of the fact find process. They also need to collect client identification information for AML/CTF purposes. Financial advice firms will typically store client data in financial planning systems that have strong data protection capability. The bigger risk exposure is with respect to the collection of this information and the transfer of this information, including via emails. Many practices are managing this risk by transitioning to using client portals to better enable the secure exchange of information with clients.

Access to the ATO Portal, where this important information can be directly accessed and electronically transferred to a financial planning system, will reduce the cyber risk, not increase the risk.

We acknowledge financial advisers would need to meet the same requirement that registered tax practitioners need to meet to access ATO information. This would include meeting the ATO's technological requirements and the client/agent linking requirements.

System Costs

The consultation paper refers to the need to develop a new platform to enable the ATO to provide this information to financial advisers. This may not be necessary. The financial advice profession's needs could be met if it were possible for financial advisers to be provided with read only access to a subset of existing systems that are available to tax agents and BAS agents.

We fully support the minimisation of cost in this exercise and would welcome further discussion on the most effective options to achieve this outcome. We recognise that existing resource constraints within the ATO have resulted in registered tax practitioners reporting dissatisfaction with ATO service standards and the ability to use online services for agents. For this proposal to succeed, the government would need to provide additional funding to the ATO to improve online services for tax agents and to provide financial advisers with access to client data.

We ask that Treasury and the ATO undertake this analysis and share the results with the tax and advice professions. Whilst the financial advice cohort may be relatively small, the benefits would flow to a much larger group of consumers.

Other Feedback

Whilst we note the comment in the consultation paper about how the data held within the ATO Portal is not real time, it is important to make the point that this data is only likely to improve, particularly given the range of other reforms such as payday super in the pipeline. It is also important to note that the data in the ATO Portal is likely to make the adviser aware of broader considerations, including some that will not change in the short term. And further, the more recent transactions will be better understood by the client and could be otherwise confirmed by checking other sources of data. It is visibility of the unexpected that is most useful, including forgotten super funds, lump sum contributions and previous use of bring forward provisions. Equally an understanding of prior year Total Superannuation Balance and all Transfer Balance Cap account transactions are particularly useful.

We fully note the importance of the voluntary provision of permission for this access by clients and the ability to turn it off. We do not envisage that this will create a particular issue. Advisers already have access to client information and accounts through product provider systems. This access is turned off when the advice relationship terminates.

Responding to Question 33

JAWG strongly supports the ability of the ATO to disclose information on a client's taxable income, super balance, contributions and tax components to financial advisers.

Responding to Question 34

JAWG does not know what the cost of providing access to the ATO Portal for financial advisers might be, however there would be significant ongoing benefits for advisers and their clients that would warrant investment. We do not believe that financial adviser access to the ATO Portal will lead to a significant increase in risk, and in fact should reduce data integrity risk by removing the need for clients to email this data to their financial adviser.

Conclusion

JAWG strongly supports extending access to the ATO Portal to financial advisers and would be enthusiastic to work with Treasury to help facilitate this outcome. If you have any questions with respect to this submission, then please contact Phil Anderson at the FAAA on phil.anderson@faaa.au or via (02) 9220 4500.

Boutique Financial Planning Principals Association

Financial Advice Association Australia

Financial Services Council

Financial Services Institute of Australasia

Institute of Public Accountants

Licensee Leaders Forum

Self Managed Super Fund Association

Stockbrokers and Investment Advisers Association

The Advisers Association Ltd