

**ATO ALERT ON CERTAIN SCHOLARSHIP TRUSTS
NOT RELEVANT TO
FRIENDLY SOCIETY EDUCATION SAVINGS PRODUCTS**

Friendly societies, their advisers and intermediaries should note that the release by the Australian Taxation Office [ATO] of *Taxpayer Alert TA 2007/6* on 14 June 2006 is targeted at certain scholarship trusts and *not* at friendly society education savings products.

TA 2007/6 may be found on the following ATO website page:

<http://law.ato.gov.au/atolaw/view.htm?docid=TPA/TA20076/NAT/ATO/00001>

Taxpayer Alerts are intended to be an "early warning" of significant new and emerging tax planning issues or arrangements that the ATO has under risk assessment. They are written principally for taxpayers and their advisers and they also serve to inform ATO officers of new and emerging tax planning issues.

In the case of *TA 2007/6*, concern is expressed by the ATO about certain scholarship trust and education funding program arrangements which claim to provide tax-free benefits to students.

As some confusion appears to have already arisen among a few investors, intermediaries, journalists and also on the radio, it is important to note that:

1. The described arrangements in *TA 2007/6* have *nothing to do* with 'scholarship plans' and 'education savings plans' that are offered by friendly societies.
2. The education savings products of a friendly society that fall within the definition of a 'scholarship plan' under subsection 995-1(1) of the *Income Tax Assessment Act 1997* are required to meet a strict sole purpose test.
3. The concessional tax arrangements for a friendly society 'scholarship plan' are contained in specific provisions of the Act, which arose out of the Government's *review of business taxation*.
4. In conjunction and consultation with the friendly society industry – including the societies offering the products, the ATO published a general information fact sheet in 2003 on the tax arrangements relating to a friendly society 'scholarship plan'. A current version of this publication may be found on the following ATO website page:
<http://www.ato.gov.au/large/content.asp?doc=/content/31055.htm>

5. Reference in *TA 2007/6* to *Taxation Ruling TR 93/39* (concerning certain friendly society education products offered at the time – and which ceased to be offered from 29 April 1993) is made to draw on a point in that ruling that:
- A 'scholarship, bursary or other educational allowance or educational assistance' is an award for merit attained as a result of competition or selection on the basis of general criteria.

It is *not* made to imply that a friendly society 'scholarship plan' is involved with the described arrangements in *TA 2007/6* – because its arrangements are quite different.

6. A friendly society 'scholarship plan' does *not* operate within a *trust* structure. Rather, it relates to a constituent *benefit fund* structure within the friendly society itself.

Unlike a trust with its own trustee (and subject to whether trust income is distributed to beneficiaries or not), no tax liability falls on a benefit fund as such – rather, on the friendly society as a whole.

Also, *approved benefit fund rules* apply to each benefit fund, under the *Life Insurance Act 1995* – and those rules (which govern the operation of a friendly society product) are required to be registered with the *Australian Prudential Regulation Authority* [APRA].

7. Reference is also made in *TA 2007/6* to the described arrangement of surplus funds of an 'Individual Scholarship Trust' being invested in a ten-year 'Investment Bond', where the funds will accumulate free of tax.

Underlying investments of a friendly society benefit fund (through which scholarship plans or education savings plans are offered) would *not* normally include a ten year 'Investment Bond'. Rather, benefit fund assets are typically invested in cash and other disclosed market securities.

In any event, a ten-year 'Investment Bond' is a separate and established investment product offered by many friendly societies and life offices – and it is *not* an investment that is targeted by *TA 2007/6* (any more than cash or other market securities used to invest surplus proceeds).

Societies are encouraged to share this special AFSA bulletin with interested parties – particularly those who may have misunderstood the described arrangements in *TA 2007/6*, and who may have confused them with friendly society scholarship plans and education savings plans, many of which have been offered for over 30 years.

Tony C Jacob
Chairman
AFSA Tax Committee

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An AFSA tax bulletin does not constitute advice. Affected societies and their investors are encouraged to seek and obtain appropriate, timely and independent professional advice prior to making any decisions on the basis of its contents – and to help meet their respective obligations under relevant tax laws.