



Professional Investment Services Pty Ltd

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General Manager
Superannuation, Retirement and Savings Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir

Re: Submission - A Plan to Simplify and Streamline Superannuation

At the outset, the Government is to be congratulated on the foresight they have exhibited in proposing such radical changes to the superannuation system in Australia. The proposed changes, once implemented, will have the potential to significantly simplify the superannuation system and, in turn, build public confidence in a robust retirement structure.

After reviewing "A Plan to Simplify and Streamline Superannuation", we wish to make a submission in relation to a number of elements, but firstly, allow us to introduce ourselves.

About Professional Investment Services

Professional Investment Services was established in August 1996 by a small group of accountants and financial planners. Today the group is the largest financial planning firm in Australia, comprising of 1300 authorised representatives operating through 950 branches (primarily accounting practices). Professional Investment Services operates in all States of Australia and has interests in successful financial planning businesses in New Zealand, Singapore, Malaysia and Hong Kong. Approximately 175 are employed by Professional Investment Services to support its network of planners and accountants.

As a part of its day-to-day operations, Professional Investment Services manages approximately \$12.5bn on behalf of 600,000 clients. It also advises on approximately \$120,000,000 of in-force life insurance premiums.

Professional Investment Holdings Pty Ltd, the parent company of Professional Investment Services, is an unlisted public company, the majority of shares being held by accountants, financial planners and staff

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whilst Aviva Marketing Services Pty Ltd and Aviva Ltd hold approximately 25%.

Turning now to the proposed changes to superannuation, we wish to make the following comments:

Taxable Contributions

1. Currently Australia operates with a complex system of age-based contribution limits. The complexity is further compounded by the formula based deductions for the self-employed, substantially self-employed and unsupported person. The removal of the formula based deductions is to be welcomed.

The proposals suggest a limit of taxable contributions from 1 July 2006 of \$50,000 per person per financial year, with a transitional limit of \$100,000 for people aged over 50 years of age for a 5 year period from 1 July 2007.

Under the current age-based system, a person who is employed by more than one un-associated employer has the capacity to access more than one age-based contribution limit in a given financial year. Access to more than one age-based contribution limit has proved an effective strategy for many people. We envisage potential difficulties with the proposed treatment of taxable contributions where a person may change employers during the course of the year. Where the original employer has contributed to the maximum limit (perhaps as a combination of superannuation guarantee contributions and via a salary sacrifice arrangement), any contributions made by the subsequent employer in fulfilling their SG obligations will be taxed at the higher rate of 45% within the superannuation fund. Allowing a person to have contributions of up to the limit by each un-associated employer would help to alleviate this potential problem.

2. There has been no reference to the proposed limit on taxable contributions being indexed. Indexation becomes vitally important for people who, through circumstance, don't have the capacity in their younger years to maximise their contributions to superannuation.
3. By limiting contributions to \$50,000, people will be restricted in terms of the maximum amount of taxable contributions they may make to superannuation, when compared to the current age based limits. Under the present system, once a person reaches age 50, the maximum taxable contributions limit is \$105,113 (for the 2006/07 financial year). Those currently under 50 years of age would have had, once they turned 50, access to a significantly higher age-based limit had the current system prevailed.
4. The proposals provide for contributions in excess of the maximum limit of \$50,000 (or \$100,000 under the transitional arrangements) to be taxed within the receiving superannuation fund at a rate of 45%. Is it the intention to amend the regulation to class such contributions as special income? Will the fund be able to apply tax deductions in order to offset this higher rate of tax on "excessive" contributions?

Capping of Post-Tax (Undeducted) Contributions

The capping of undeducted contributions effective from Budget night has been controversial to say the least. We have identified a number of situations where we believe that the capping of contributions has had a significant impact on the ability of people to make provision for their futures.

1. A strategy that has often been used by people receiving an insurance settlement in consequence of an accident or injury has been to make an undeducted contribution to superannuation and then, to the extent that is allowed under the current preservation requirements, commence to draw an income stream. This has enabled such people to receive appropriately structured income payments, thus ensuring effective day-to-day management of their payout. The capping of undeducted contributions will remove this type of structuring for victims of illness and accident.

We believe that undeducted contributions arising in such situations should be exempt from capping.

2. As a part of a normal medium to longer term financial planning process, clients are often advised to transfer additional (non-superannuation) assets into superannuation as they approach retirement. In many cases it is not possible for assets to be liquidated progressively over time to enable contributions to be made within the proposed capped limits. For example, many small business people treat their business as their superannuation. On approaching retirement, the business is sold and the proceeds contributed to superannuation in anticipation of commencing to draw an income stream to fund their retirement. As many small business people may not meet the conditions to allow them to qualify for the small business capital gains tax exemptions, the only way they have previously been able to use the sale proceeds for retirement purposes is to make an undeducted contribution. As it is often impractical to liquidate a small business progressively over time, these small business people will be significantly impacted in terms of their ability to appropriately structure their retirement income stream.
3. A dilemma faced by a number of people was the introduction of the capping of undeducted contributions effective from 10 May 2006. A number of clients of our own financial planners were in the process of putting in place strategies to make additional contributions to superannuation and had commenced the process of liquidating other assets, or in some cases commence proceeds to transfer assets to a self managed superannuation fund in-specie. The effect of the cap on undeducted contributions from 10 May 2006 has caught a number of people in a position whereby they are unable to complete previously initiated financial strategies.

We believe that some relief should be granted to people who had already commenced to put in place strategies to make additional contributions to superannuation that exceed the cap on undeducted contributions.

4. Under current superannuation and taxation arrangements, a person may transfer benefits that have accrued in an overseas superannuation or pension fund to an Australian complying superannuation fund. The contributions are treated as an undeducted contribution to the extent the benefit is transferred within six months of the contributor becoming an Australian resident. Where the transfer occurs once a contributor has been an Australian resident for more than six months, part of the amount transferred may be treated as an undeducted contribution.

We believe that the capping of undeducted contributions may have an unintended consequence on people seeking to transfer their overseas superannuation benefits to an Australian fund and such transfers should be excluded from the capping.

5. No mention is made in "A Plan to Simplify and Streamline Superannuation" of the indexation of the undeducted contribution cap. We believe the cap should be indexed in order to maintain relativity.
6. The proposals, and subject information released by Treasury has foreshadowed the adoption of a three year averaging provision in relation to undeducted contributions. This would effectively allow people to bring forward up to three years contributions and make a single contribution of up to \$450,000. However, where any part of the three year "averaging" period extends beyond a person's 65th birthday, we understand they will be required to satisfy the work test for the years to which averaging applies. As this would effectively require a person to satisfy a prospective work test, we believe it is impractical and should be re-considered.

Reasonable Benefit Limits

The abolition of RBLs is welcome news and removes a significant level of complexity for many people and their retirement planning.

The pension RBL is used as a reference in the Bankruptcy Act 1966 (sec 116) to the extent that a bankrupt's interest in a regulated superannuation fund is excluded from property of the bankrupt divisible amongst creditors.

We believe that the Bankruptcy Act needs to be amended to ensure the continued protection of certain superannuation assets from a bankrupt's estate.

Death Benefits

The exemption of all death benefits from tax when paid to a dependant is welcome news. A "dependant" is defined differently in the Income Tax Assessment Act, and the Superannuation Industry (Supervision) Act. We assume that the reference to death benefits being paid to a dependant tax free refers to a dependant as defined in the Income Tax Assessment Act (as is currently the case for death benefits within a deceased members pension RBL).

The proposals speak of the ability of a pension to revert to a dependant, however, the proposals are unclear as to whether the dependant in this context is a dependant as defined in the Income Tax Assessment Act or as

defined in the Superannuation Industry (Supervision) Act, as is currently the case.

Furthermore, where a member dies whilst in the accumulation phase of superannuation a fund may, subject to the provisions of the relevant Trust Deed, pay the death benefit as a lump sum or as a new pension. The proposals are not clear on whether superannuation fund trustees will still be able to pay a new pension to a dependant beneficiary following the death of a member in the accumulation phase of superannuation.

As estate planning becomes an increasingly important aspect of superannuation, the ability of a fund's trustees to have flexibility in the manner in which benefits may be paid can not be overlooked.

Eligible Termination Payments

The proposed simplification of the ETP system by replacing eight current ETP components with two is welcome news.

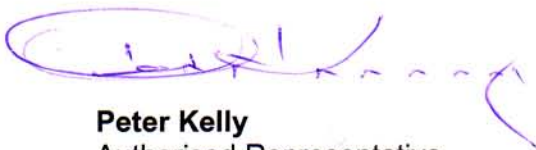
1. The current Post June 1994 Invalidity Component is an important concession for people who become totally and permanently disabled. Some form of concessional treatment needs to be retained for all people who have the misfortune of becoming disabled during their working life. Furthermore, there has been continuing debate about the ability of a self-employed person to be eligible to receive a Post June 1994 Invalidity Component.

We believe that the change to the current ETP system presents an opportunity for the taxation of such benefits when received by self-employed persons to be clarified and for any discrimination against the self-employed to be removed.

2. The proposals also make reference to superannuation funds to calculate each members Pre July 1983 Component at a particular date. We believe that the effective date should be announced as soon as possible in order to remove uncertainty.

Please direct any enquiries to the undersigned if any aspect of this submission requires clarification or if additional information is required.

Yours faithfully



Peter Kelly
Authorised Representative
National Technical Services Manager
Professional Investment Services Pty Ltd