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**FEDERAL COUNCIL**  
PO Box 107  
MAWSON ACT 2607  
Phone: (02) 6286 7977  
Fax: (02) 6286 7999  
E-mail: [fedoffice@scoa.asn.au](mailto:fedoffice@scoa.asn.au)  
ABN 66 313 469 900

8 August 2006

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

Dear Sir/Madam,

**A PLAN TO SIMPLIFY AND STREAMLINE SUPERANNUATION -  
COMMENTS BY SCOA**

Thank you for your invitation to provide comments on the Government's proposal to simplify and streamline superannuation.

SCOA congratulates the Government on this landmark initiative on an issue which affects the lives of most people.

However, SCOA does have some concerns about some aspects which appear to impact adversely on members, pensioners and deferred beneficiaries of unfunded schemes such as the CSS and the PSS. These concerns are outlined in the attached submission along with recommended solutions.

SCOA would be happy to have representatives meet with you to discuss these matters in greater detail. If you wish to take up this offer, please contact our Federal Secretary, John Coleman, on 6286 7977 or at [fedoffice@scoa.asn.au](mailto:fedoffice@scoa.asn.au).

Along with you we hope that the end result of Treasury's consultation process will be a superannuation environment which meets the current and future needs of all retirees in Australia.

Yours sincerely,

Ewan Hazell  
Federal President



**SUPERANNUATED COMMONWEALTH OFFICERS'  
ASSOCIATION (FEDERAL COUNCIL) INC.**

**A SUBMISSION**

***IN RESPONSE TO***

**'SIMPLIFYING SUPERANNUATION'**

***A KEY PROPOSAL IN THE  
2006-2007 FEDERAL BUDGET***

PO Box 107, Mawson ACT 2607  
Telephone: (02) 6286 7977  
Fax: (02) 6286 7999  
Email: [fedsec@scoa.asn.au](mailto:fedsec@scoa.asn.au)  
Website: [www.scoa.asn.au](http://www.scoa.asn.au)

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## **EXECUTIVE SUMMARY**

SCOA welcomes the Government's initiatives on superannuation as set out in the 2006/07 Federal Budget and commends the Government on this very significant initiative on an issue which affects the lives of most people. The proposals offer considerable benefits to superannuants – present and future – including most State and Commonwealth public service superannuation pensioners and contributors.

SCOA has coordinated its response with the Australian Council of Public Sector Retirement Organisations (ACPSRO) and believes its response is consistent with the responses from other ACPSRO members in relation to public sector superannuants and contributors. However, the content of this submission is the sole responsibility of SCOA and represents fully the views of SCOA.

SCOA broadly agrees with the Government's superannuation proposals and congratulates the Government on this far-reaching initiative.

In particular, SCOA strongly supports the following elements of the proposal:

- Allowing unfunded scheme beneficiaries to benefit from the new proposals through the 10% tax offset which aims, as we understand it, to match the advantages offered in this area to the beneficiaries of funded schemes;
- Enabling members to retain their superannuation beyond age 65 and not be compelled to cash out their superannuation;
- Allowing deductible contributions between the ages of 70 and 75;
- Removing Reasonable Benefit Limits (RBLs);
- More flexible drawdown provisions; and
- Halving the pension asset test taper rate.

When in place these elements of the proposal will make a material and positive difference to superannuation benefits for public sector employees throughout Australia.

SCOA recognises and applauds moves through this proposal to simplify the taxation of superannuation benefits.

However, there are a number of issues which most specifically affect public service superannuation pensioners that we need to raise for consideration and solution. These are:

- Benefits need to be made available fortnightly – and not through taxation refunds at the end of each financial year;
- There are still differences in treatment between the beneficiaries of taxed and untaxed funds. These are covered in more detail in succeeding sections; and
- There is a need for clear and separate explanatory guides covering the effect of the changes for taxed and untaxed schemes.

SCOA is aware that existing tax arrangements for superannuation benefits stem from the changes to the taxing of superannuation introduced in 1988. The main thrust of those changes was to bring forward some of the tax levied on superannuation benefits to contributions made to superannuation funds. In exchange for introducing a 15% tax to be applied to deductible superannuation contributions paid to superannuation funds, a 15% tax offset was allowed for superannuation pensions paid out of those superannuation funds.

There was also a reduction of 15% of the tax levied against lump sum payments. As tax was deducted from deductible superannuation contributions and on earnings, the benefits paid out of those superannuation funds were therefore from a taxed source. The Government is now proposing to abolish tax on all superannuation benefits paid from a taxed source to recipients aged 60 and over.

For equity reasons SCOA is of the view that there should be a corresponding reduction in tax where superannuation benefits are paid from an untaxed source. SCOA is pleased that the Government has addressed this equity situation by providing a tax offset of 10% on pension benefits and a reduction of 15% of the tax levied on lump sums payments above the low rate threshold and below \$700,000.

However, there remains a number of areas where SCOA believes that inequities exist between the taxing of superannuation benefits paid from a taxed source and the taxing of superannuation benefits paid from an untaxed source.

These include superannuation pensions which commenced before 1 July 1988 and the pre-83 component of superannuation pensions commencing from 1 July 2007.

SCOA is also concerned about the different tax treatment that will apply to non-superannuation income between those receiving a superannuation pension from a taxed source to those receiving a superannuation pension from an untaxed source.

While SCOA is in general agreement with the Government's initiatives to simplify and streamline superannuation, SCOA believes that there is a number of specific issues which require attention to ensure that simplification and streamlining of superannuation is fair and equitable, especially in relation to the provisions relating to taxed and untaxed schemes.

SCOA is also concerned that the ongoing value of a number of the proposed changes will start to be eroded within months of introduction unless thresholds are indexed on a six monthly basis to Average Weekly Ordinary Time Earnings (AWOTE).

Details relating to these inequities are addressed in the following sections along with specific recommendations which are put forward by SCOA for consideration in respect of the proposals to simplify and streamline superannuation.

## **SUMMARY OF RECOMMENDATIONS**

### ***(1) FORTNIGHTLY PAYMENT OF BENEFITS***

SCOA Recommendation:

- That the option for all benefits accruing from the 10% tax rebate be made available for payment to pensioners on a fortnightly basis through a Tax Office PAYG withholding schedule.

### ***(2) INDEXATION OF THRESHOLDS***

SCOA Recommendation:

- That all thresholds in any Acts and Regulations relating to the taxation of superannuation be indexed on a six-monthly basis by AWOTE.

### ***(3) DEFINED BENEFIT SUPERANNUATION PENSIONS CONTAINING A PRE-83 COMPONENT***

SCOA Recommendation:

- That the pre-83 component of a defined benefit superannuation pension paid from an untaxed source be exempt income and be tax free.

### ***(4) INVALIDITY SUPERANNUATION PENSIONS***

SCOA Recommendation:

- That the 10% tax offset be applied to invalidity pensions paid from an untaxed source, regardless of the age of the recipient.

### ***(5) SUPERANNUATION PENSIONS THAT COMMENCED BEFORE 1 JULY 1988 PAID TO THOSE AGED 60 AND OVER FROM AN UNTAXED SOURCE***

SCOA Recommendation:

- That superannuation pensions paid from an untaxed source which commenced before 1 July 1988 and being paid to those aged 60 and over be exempt income and be tax free.

**(6) LIMIT OF CONCESSIONAL DEDUCTIBLE CONTRIBUTIONS ON UNFUNDED SUPERANNUATION SCHEMES**

SCOA Recommendation:

- That notional unfunded employer superannuation contributions not be included when assessing the limit to be applied to concessional-taxed deductible superannuation contributions.

**(7) RECOMMENCEMENT OF SUPERANNUATION GUARANTEE CONTRIBUTIONS**

SCOA Recommendation:

- That those who previously elected to cease superannuation guarantee contributions be allowed to recommence superannuation guarantee contributions.

**(8) PROVIDE SEPARATE EXPLANATORY BOOKLETS FOR POLICIES AND PROCEDURES FOR TAXED AND UNTAXED SCHEMES RESPECTIVELY**

SCOA Recommendation:

- That separate explanatory booklets covering the agreed new policies and procedures be prepared for members of (a) taxed superannuation schemes and for members of (b) untaxed superannuation schemes and that these be available prior to 1 July 2007.

**(9) PENSIONS PAID TO SPOUSE ON THE DEATH OF MEMBER OR PENSIONER**

SCOA Recommendation:

- That the 10% tax offset be paid to all reversionary pensions paid from an untaxed source, regardless of the age of the recipient.

**(10) TREATMENT OF LUMP SUM PAYMENTS (ETPs) FROM UNTAXED SOURCES**

SCOA Recommendation:

- That lump sum ETPs paid from an untaxed source not be included as assessable income.

***(11) AGE-BASED LIMITS ON CONCESSIONAL DEDUCTIBLE SUPERANNUATION CONTRIBUTIONS***

SCOA Recommendation:

- That for those aged 50 and over the annual limit on concessional deductible superannuation contributions be retained at the present aged based limits.

***(12) CAP ON UNDEDUCTED SUPERANNUATION CONTRIBUTIONS***

SCOA Recommendation:

- That the cap on undeducted contributions not apply to passive investments rolled over to superannuation.

***(13) DEDUCTIBLE SUPERANNUATION CONTRIBUTIONS FOR THOSE BETWEEN 70 AND 75***

SCOA Recommendation:

- That the ability to make deductible superannuation contributions for those aged between 70 and 75 be brought forward from 1 July 2007.

***(14) SUPERANNUATION SURCHARGE TAX***

SCOA Recommendation:

- Regard to be taken account of surcharge tax paid by members of unfunded superannuation schemes on notional employer superannuation contributions.

***(15) TAXATION OF ADDITIONAL INCOME FOR SUPERANNUANTS AGED 60 AND OVER***

SCOA Recommendation:

- Consideration be given to treating superannuation pensions paid from an untaxed source as special income so that it is not added to non-superannuation income to determine the marginal tax rate to be applied to that non-superannuation income.

**(16) LUMP SUM PAYMENTS FROM AN UNTAXED SOURCE**

SCOA Recommendation:

- The tax on the untaxed element of the post-83 component be reduced to 0% up to the low rate threshold (currently \$135,590). Tax at the top marginal tax rate should not apply to amounts excess to \$700,000.

**(17) ABOLITION OF ASSET TEST EXEMPTION**

SCOA Recommendation:

- That the Age Pension asset test exemption of 100% be re-introduced for recipients of lifetime non-commutable complying pensions and that a cap be placed on the amount to be exempt.

# SCOA'S ISSUES

## ***(1) FORTNIGHTLY PAYMENT OF BENEFITS***

### **SCOA Recommendation:**

- **That all benefits accruing from the 10% tax rebate be available for payment to pensioners on a fortnightly basis through a Tax Office PAYG withholding schedule.**

SCOA believes that it would be simple to put this recommendation into effect. This recommendation is made for several reasons:

- the average Commonwealth and Defence superannuation pension is approximately \$21,000 p.a. and for many recipients this is their sole or major source of income. In many instances this amount is the total household income, especially for those between the ages of 60 and 65;
- many older members of SCOA have contacted its Federal Executive to request this arrangement be put in place to enable them to access the benefit at the earliest opportunity because they are struggling financially; and
- this approach would be consistent with the way in which PAYG taxation arrangements operate for the wider community.

## ***(2) INDEXATION OF THRESHOLDS***

### **SCOA Recommendation:**

- **That all thresholds in any Acts and Regulations relating to the taxation of superannuation be indexed on a six-monthly basis by AWOTE.**

This would be consistent with the Government's long-standing policy of increasing and retaining the value of income tax thresholds. If this is not done, there will be a diminution in disposable income and the on-going value of the proposed changes will quickly diminish. This is the case with the co-contribution thresholds which have not been indexed over a period of three years.

AWOTE (Average Weekly Ordinary Time Earnings) is used here instead of MTAW (Male Total Average Weekly Earnings) as AWOTE is currently specified by the Income Tax Assessment Act 1936 to index superannuation-related thresholds contained in that Act.

The co-contributions legislation also specifies that the co-contribution thresholds are to be indexed by AWOTE for the 2007/08 financial year and subsequent financial years.

### **(3) DEFINED BENEFIT SUPERANNUATION PENSIONS CONTAINING A PRE-83 COMPONENT**

#### **SCOA Recommendation:**

- **That the pre-83 component of a defined benefit superannuation pension paid from an untaxed source be exempt income and tax free.**

As SCOA understands the proposals, to simplify and streamline superannuation it is proposed that the pre-83 component of a superannuation lump sum payment be an exempt component and tax free. It is also proposed that, if the exempt component (including the pre-83 component) is rolled over to purchase a pension, the exempt component would be regarded as the undeducted purchase price of the pension and used to determine the deductible amount of the pension. This arrangement would apply equally to the pre-83 component paid from a taxed or untaxed source.

It would be unfair if defined benefit pensions paid from an untaxed source which commenced to accrue before 1 July 1983 did not receive any benefit from the decision to exempt the pre-83 component of a lump sum from tax. This is especially so when the Government ensured that the full value of the pre-83 component of a defined benefit pension paid from an untaxed source were counted for the purposes of the RBLs. Accordingly, the Government should now provide the same relief to the pre-83 component of defined pensions paid from an untaxed source as it is proposing for pensions purchased by rolling over a superannuation lump sum, including a superannuation lump sum paid from an untaxed source.

SCOA suggests the simplest way to achieve equity between superannuation pensions purchased from rolling over an ETP and defined benefit pensions paid from an untaxed source is, at the date the pension commences, to calculate the proportion of pension which accrued before 1 July 1983 with that proportion of pension being exempt income and tax free.

The following illustrates that part of a defined pension which should be tax free.

Pension	\$30,000 per annum
Start date	1 January 1974
Commencement date of pension	1 January 2008
Pre-83 days	3,468
Post-June 83 days	8,951
Total days	12,419

Suggested exempt component of pension:

$$\$30,000 \times 3,468 / 12,419 = \$8,377.49$$

If the defined benefit pension were paid from an untaxed source to a person aged 60 and over, \$8,377.49 would be exempt income and tax free with \$21,622.51 being taxable and subject to a 10% tax rebate.

#### **(4) INVALIDITY SUPERANNUATION PENSIONS**

##### **SCOA Recommendation:**

- **That the 10% tax offset be applied to invalidity pensions paid from an untaxed source, regardless of the age of the recipient.**

The proposals to simplify and streamline superannuation do not appear to include any reference to invalidity or disablement pensions. A number of SCOA members are in receipt of invalidity pensions from an untaxed source - that is, from the CSS or PSS. These pensions were not purchased and as a result are taxed at the recipient's marginal tax rate. If the invalidity pension includes the member's own contributions there may be a deductible amount arising from the undeducted purchase price. SCOA believes that recipients of invalidity superannuation pensions should receive a tax offset similar to the tax offset applying to recipients aged 60 and over.

For example, a person receiving a lump sum superannuation payment as a result of being retired due to a disability is entitled to a concession in the form of the post-1994 invalidity component. The post-1994 invalidity component is based on the period of service foregone to normal retirement age, generally age 65, and is tax free irrespective of whether it is paid from a taxed or untaxed source. If the lump sum is rolled over to purchase a pension the concession from the post-1994 invalidity component is transferred to the pension payments and is treated as part of the undeducted purchase price resulting in a tax deduction being applied to the income from the pension. There is no such concession applied to recipients of non-purchased pensions paid from an untaxed source.

It seems inequitable that the recipients of lump sums can receive a tax concession on the tax applying to the payment of lump sum benefits and any resulting pension purchased with that lump sum by rolling the lump sum over to a pension fund. However, recipients of invalidity superannuation pensions paid from an untaxed source, especially where there is no option to take a lump sum to purchase a concessionally taxed superannuation pension, cannot receive a similar tax concession. To provide a similar tax concession to the recipients of invalidity pensions under age 60, SCOA suggests that those in receipt of an invalidity pension from an untaxed source should also be entitled to the 10% tax offset.

A more complicated solution would be to calculate a notional post-1994 component of the amount to determine an undeducted purchase price and apply a tax deduction against the invalidity superannuation pension. However, as suggested, a simpler solution would be to allow a 10% tax offset against invalidity superannuation pensions paid from an untaxed source for recipients under age 60.

**(5) SUPERANNUATION PENSIONS THAT COMMENCED BEFORE 1 JULY 1988 PAID TO THOSE AGED 60 AND OVER FROM AN UNTAXED SOURCE**

**SCOA Recommendation:**

- **That superannuation pensions paid from an untaxed source that commenced before 1 July 1988 and being paid to those aged 60 and over be exempt income and be tax free.**

SCOA's understanding is that, prior to 1 July 1988, superannuation funds did not pay tax on earnings or on superannuation contributions. SCOA also understands that superannuation pensions which are paid out of a complying superannuation fund and commenced before 1 July 1988 and are still being paid are regarded as being paid from a taxed source even though the earnings on assets in the superannuation fund from which the pension liability arises is segregated from other assets and exempt from tax.

Accordingly, superannuation pensions paid from a taxed source which commenced before 1 July 1988 were never required to pay tax on contributions or earnings and currently there is no tax being paid on the earnings of the assets which are funding the pension payments as those earnings are exempt from tax in accordance with section 282B of the *Income Tax Assessment Act 1936*. Even though no contribution or earnings tax has been paid, these pensions are regarded as being paid from a taxed source and those aged 55 and over were entitled to a tax rebate from 1 July 1988. The rebate for the 1988/89 financial year was at the rate of 3% of the rebateable pension and was phased in to 15% of the rebateable pension from and including the 1992/93 financial year. SCOA understands that rebateable pensions which commenced before 1 July 1988 were entitled to this rebate even though no contributions or fund earnings tax was paid in respect of those pensions.

Similarly, as SCOA understands the proposals, pensions which commenced before 1 July 1988 and paid from a taxed source, even though no contributions or earnings tax has been paid, will be tax free for those aged 60 and over.

Superannuation pensions which commenced before 1 July 1988 and are paid from an untaxed source (that is, not out of a complying superannuation fund) are in exactly the same tax situation as superannuation pensions paid from a taxed source which also commenced before 1 July 1988. Superannuation pensions paid from an untaxed source and superannuation pensions paid from a taxed source which commenced before 1 July 1988 did not pay contributions or earnings tax. Accordingly, there should be no difference in the way a pension paid from an untaxed or taxed source which commenced before 1 July 1988 should be treated from 1 July 2007.

**Therefore SCOA suggests it would be unfair to tax a superannuation pension paid from an untaxed source which commenced before 1 July**

**1988 and not tax a superannuation pension paid from a taxed source which commenced before 1 July 1988 when, in both situations, no contributions or earnings tax has been paid.**

**(6) LIMIT OF CONCESSIONAL DEDUCTIBLE CONTRIBUTIONS ON UNFUNDED SUPERANNUATION SCHEMES**

**SCOA Recommendation:**

- **That notional unfunded employer superannuation contributions not be included when assessing the limit to be applied to concessional-taxed deductible superannuation contributions.**

SCOA is unclear if the proposals intend to include the unfunded notional employer contributions (the unfunded employer contribution to unfunded superannuation schemes such as the CSS and PSS) in the limit on concessional deductible contributions. The notional employer superannuation contribution for each member of an unfunded superannuation scheme was determined in order to assess the amount of surcharge tax to be levied on those unfunded contributions.

Many CSS and PSS members salary sacrifice to other superannuation funds. SCOA would be concerned if unfunded employer contributions were taken into account in assessing the limit on which salary sacrifice superannuation contributions would be subject to the 15% superannuation contribution tax.

Benefits arising from unfunded employer contributions are still to be taxed at a higher rate than superannuation benefits paid from a taxed source. Therefore, because of the additional tax applied to superannuation benefits payments from an untaxed source, unfunded employer superannuation contributions should not be included with deductible contributions when assessing the application of the limit on concessional deductible contributions of \$50,000.

SCOA considers that unfunded employer superannuation contributions should not be included with deductible superannuation contributions when assessing the application of the limit on concessional deductible contributions of \$50,000.

## **(7) RECOMMENCEMENT OF SUPERANNUATION GUARANTEE CONTRIBUTIONS**

### **SCOA Recommendation:**

**That those who previously elected to cease superannuation guarantee contributions be allowed to recommence superannuation guarantee contributions.**

Many people who exceeded their pension RBLs made elections under subsection 19(4) of the *Superannuation Guarantee (Administration) Act 1992* to enable their employer to cease paying superannuation guarantee superannuation contributions on their behalf into a superannuation fund.

Sub-section 19(5) of the *Superannuation Guarantee (Administration) Act 1992* provides that an election by the employee to allow the employer to cease making superannuation guarantee contributions is irrevocable. Accordingly, as a result of the abolition of the RBLs many employees may wish their employer to resume making superannuation guarantee contributions to their superannuation fund.

Options for implementing this recommendation include:

- That subsections 19(4) and 19(5) of the *Superannuation Guarantee (Administration) Act 1992* be amended to require employers again to be required to pay superannuation guarantee contributions on behalf of their employees where an election was made under subsection 19(4) of the *Superannuation Guarantee (Administration) Act 1992* which allowed employers to cease making superannuation guarantee contributions in respect of an employee.
- That subsection 82AAT(1F) of the *Income Tax Assessment Act 1936* be repealed to allow those making deductible superannuation contributions to be able to claim a tax deduction for those contributions.

**(8) PROVIDE SEPARATE EXPLANATORY BOOKLETS FOR POLICIES AND PROCEDURES FOR TAXED AND UNTAXED SCHEMES RESPECTIVELY**

**SCOA Recommendation:**

- **That separate explanatory booklets covering the agreed new policies and procedures be prepared for members of (a) taxed superannuation schemes and for members of (b) untaxed superannuation schemes and that these be available prior to 1 July 2007.**

SCOA is aware that a lot of its members had difficulty discerning what changes would apply to them as members of an untaxed superannuation scheme.

SCOA believes that the uncertainty has arisen because the long and short versions of *A plan to simplify and streamline superannuation – May 2006* explanatory booklets covered both taxed and untaxed superannuation schemes and that there was insufficient consolidation of proposed changes applicable to untaxed schemes.

Further confusion amongst our members arose from media coverage.

Another factor is that many Commonwealth superannuants are over 70 years of age and it has been difficult for them to deal with the complexity of the new untaxed fund arrangements.

SCOA believes that uncertainty would be minimised if separate booklets, covering the agreed policy and procedural changes to apply from 1 July 2007 in respect of members of (a) taxed and (b) untaxed superannuation schemes, were prepared and were available prior to 1 July 2007.

## **(9) PENSIONS PAID TO SPOUSE ON THE DEATH OF MEMBER OR PENSIONER**

### **SCOA Recommendation:**

- **That the 10% tax offset be paid to all reversionary pensions paid from an untaxed source, regardless of the age of the recipient.**

SCOA notes that, where a pension is paid on the death of a member or pensioner, the taxation of the pension depends on the age of the primary beneficiary. If the primary beneficiary were aged 60 and over, the pension paid to the spouse and/or dependants would be tax-free or, if the pension were paid from an untaxed source, a tax offset of 10% of the pension would apply. If the primary beneficiary were under age 60 the reversionary pension would be taxed at the recipient's marginal tax rate. If the pension were paid from a taxed source a 15% rebate would apply. If the recipient were aged 60 and over the tax arrangements applying to all pension recipients aged 60 and over would apply.

Currently, a lump sum paid on death to a dependant is tax free up to the primary beneficiary's pension RBL. In many cases there is also a refund of contribution tax paid in respect of the primary beneficiary added to the lump sum in accordance with section 279D of the *Income Tax Assessment Act 1936*.

Under the proposals, all death benefit lump sums will be tax free when paid to a dependant irrespective of the dependant's age, the amount of the lump sum, and whether the payment is from a taxed or untaxed source. SCOA supports this initiative.

However, SCOA believes the taxing of reversionary superannuation pensions paid to recipients under age 60 is inequitable when compared to the tax treatment applying to death benefit lump sums. The under age 60 spouse of a primary beneficiary who is also under age 60 will pay marginal tax rates on the reversionary pension. In many public sector unfunded superannuation schemes there is no alternative to take the death benefit other than as a reversionary pension. If there were an option to take a lump sum, the lump sum payment would be tax-free. However, when taken as a pension, marginal tax rates apply.

There is no incentive to take a death benefit as a pension if marginal tax rates are to be applied against the pension. The spouse of a CSS member or pensioner or a PSS pensioner does not have the option to take a lump sum and, if they are under age 60, they are forced to take a pension taxed at marginal tax rates.

SCOA considers that to be equitable with death benefit lump sums paid to dependants, reversionary pensions paid to dependants under age 60 - where the primary beneficiary was also under age 60 - should be subject to the same rules applying to superannuation pensions paid to those aged 60 and over. With regard to reversionary pensions paid from an untaxed source this would mean that the pension would be subject to at least a 10% tax offset.

## **(10) TREATMENT OF LUMP SUM PAYMENTS (ETPs) FROM UNTAXED SOURCES**

### **SCOA Recommendation:**

- **That lump sum ETPs paid from an untaxed source not be included as assessable income.**

SCOA notes that superannuation lump sum payments from a *taxed* source will no longer be regarded as assessable income. However, it appears from the information so far provided that superannuation lump sum payments from an *untaxed* source will continue to be assessable income. It is assumed that concessional tax will be provided by applying a tax offset to reduce the tax payable on the lump sum to the appropriate tax rate.

**The inclusion of superannuation lump sums from an untaxed source as assessable income means there will be loss of other tax offsets such as the Low Income Tax Offset and the Senior Australians Tax Offset. In addition, it can affect eligibility for and continuity of Centrelink and Department of Veterans' Affairs benefits and allowances.**

It seems inequitable that superannuation lump sums from a taxed source will not be included as assessable income while superannuation lump sums from an untaxed source will be treated as assessable income.

SCOA considers that superannuation lump sums from an untaxed source should not be regarded as assessable income and the taxing of such lump sums should no longer involve applying a tax offset to reduce the tax to the appropriate tax rate.

## **(11) AGE-BASED LIMITS ON CONCESSIONAL DEDUCTIBLE SUPERANNUATION CONTRIBUTIONS**

### **SCOA Recommendation:**

- **That for those aged 50 and over the annual limit on concessional deductible superannuation contributions be retained at the present age-based limits.**

SCOA notes the proposal to remove the age-based limits and replace them with a limit on concessional deductible contributions of \$50,000 per person. SCOA is concerned that the reduction of the age-based limit from \$105,133 (in 2006/07) to \$50,000 will affect the ability of some people to save adequately for their retirement.

SCOA believes that the universal limit of \$50,000 will encourage a more even contribution rate over a person's working life. However, many younger people have difficulty paying superannuation contributions of \$50,000 when raising a family and paying high mortgage repayments. It is only when children have grown up and left home and the mortgage is paid off that consideration can be given to increasing contributions to superannuation. We believe that the existing age-based limits were structured the way they are to reflect the actual superannuation contribution profile of most people.

Limiting the concessional tax treatment of superannuation contributions to \$50,000 (notwithstanding the transitional arrangements) may reduce the capacity of certain people adequately to fund their retirement, especially women.

SCOA considers that for those aged 50 and over the limit on concessional deductible superannuation contributions should be increased to the current age-based limit of \$105,113 (currently indexed to AWOTE). SCOA also considers that the limit on concessional deductible superannuation contributions should be indexed to Average Weekly Ordinary Time Earnings (AWOTE).

## **(12) CAP ON UNDEDUCTED SUPERANNUATION CONTRIBUTIONS**

### **SCOA Recommendation:**

- **That the cap, on undeducted contributions, not apply to passive investments rolled over to superannuation.**

While this provision will most likely be more relevant to the wealthier in the community, it is still likely to be relevant to some members of SCOA who happen to receive an inheritance or for some other reason have an amount they can deploy to improving their superannuation.

SCOA is concerned that the cap of \$150,000 per year or \$450,000 averaged over three financial years may be restrictive.

Over the years many people have invested outside of the superannuation system to provide for their retirement. The reasons for not using the superannuation system are varied and include a lack of trust in superannuation providers and wishing to retain control of personal investments. For example, many people invested in property as a way of building up assets for their retirement. Property is often considered as a safe long-term investment. However, investment in direct property, in many cases, cannot be achieved within the superannuation system because of superannuation funds not being permitted to borrow in order to purchase investment assets.

The income from investments outside the superannuation system has been taxed at marginal rates.

It is also noted that those with a capital gain of up to \$500,000 from selling a business will be able to roll over the capital gain into superannuation and this payment will not count against the undeducted superannuation contribution cap.

**SCOA considers that the sale of passive investments such as property, shares, etc., should be treated in the same manner as the capital gain from the sale of a business and be allowed to be rolled over into superannuation and be exempt from the cap on undeducted superannuation contributions.**

**(13) DEDUCTIBLE SUPERANNUATION CONTRIBUTIONS FOR THOSE BETWEEN 70 AND 75**

**SCOA Recommendation:**

- **That the ability to make deductible superannuation contributions for those aged between 70 and 75 be brought forward from 1 July 2007.**

SCOA noted the announcement of the Treasurer on 13 June 2006 which allowed those aged 65 and over and not working and those aged 75 and over on 10 May 2006, being no longer compulsorily required to cash their superannuation. SCOA welcomes this initiative to bring forward this proposal from 1 July 2007 to 10 May 2006.

However, SCOA believes that the proposal to allow deductible superannuation contributions to be extended to persons aged 70 to 75 should also be brought forward to 10 May 2006. Those currently over age 70 and working can only make undeducted contributions to superannuation. In light of the proposal to allow deductible superannuation contributions from 1 July 2007 it would be fair to bring forward this initiative so that these people can take advantage of the Government's proposal before they retire.

**(14) SUPERANNUATION SURCHARGE TAX****SCOA Recommendation:**

- **Regard to be taken account of surcharge tax paid by members of unfunded superannuation schemes on notional employer superannuation contributions.**

Higher income earners were required to pay a surcharge tax on the superannuation contributions paid by their employer or on deductible superannuation contributions, if self employed, in addition to the 15% contributions tax.

However, it appears that the Budget proposals may have overlooked the fact that members of unfunded superannuation schemes such as the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS) were also required to pay the surcharge tax on their notional employer superannuation contributions (a deductible superannuation contribution deemed to have been paid to the unfunded superannuation scheme by the member's employer).

Therefore, there needs to be recognition of the payment of this tax when reducing the tax payable on superannuation benefits received from an untaxed source.

**It should be noted that this relatively widespread situation is a clear instance of tax having been paid in what is labelled an 'untaxed' scheme.**

**(15) TAXATION OF ADDITIONAL INCOME FOR SUPERANNUANTS AGED 60 AND OVER****SCOA Recommendation:**

- **Consideration be given to treating superannuation pensions paid from an untaxed source as special income so that it is not added to non-superannuation income to determine the marginal tax rate to be applied to that non-superannuation income.**

CSS indexed pensions and a considerable part of PSS pensions are paid from an untaxed source. SCOA has compared the proposed tax savings on superannuation pensions paid from a taxed source with the tax savings on superannuation pensions paid from an untaxed source. SCOA believes that the 10% tax offset against superannuation pensions from an untaxed source will provide tax savings which broadly equate to the tax savings on superannuation pensions paid from a taxed source.

However, the differing proposed treatments of non superannuation income, when combined with superannuation from taxed and untaxed sources, will produce more favourable outcomes for persons drawing pensions from taxed superannuation funds. This is because of the exemption, as income, of the superannuation pension from the taxed source. For CSS and the untaxed component of PSS pensions this is evident for the top 20% of pensions. See table in Attachment 2 for pension distribution levels.

## **(16) LUMP SUM PAYMENTS FROM AN UNTAXED SOURCE**

### **SCOA Recommendation:**

- **The tax on the untaxed element of the post-83 component be reduced to 0% up to the low rate threshold (currently \$135,590). Tax at the top marginal tax rate should not apply to amounts excess to \$700,000.**

There is no change to the taxing of the post-83 components of lump sums for those under age 60. The other components of lump sum payments will be tax free irrespective of whether they are paid from a taxed or untaxed source. For those aged 60 and over the total amount of a lump sum payment from a taxed superannuation fund will be tax-free. The post-83 component of a superannuation lump sum paid from an untaxed source will be taxed at 15% up to \$700,000 and then at the top marginal tax rate for any amounts above \$700,000.

While SCOA is concerned that there is no tax saving for those aged 60 and over receiving a lump sum from an untaxed source up to the low rate threshold, it is noted that there are also no savings for a similar benefit paid from a taxed source. This is because there was already no tax payable on a lump sum payment from a taxed superannuation up to the low threshold. Nonetheless SCOA believes that the tax on superannuation lump sums paid from an untaxed source to those aged 60 and over should be tax-free up to the low rate threshold. As those aged 55 to 59 are also paying tax at 15% on the post-83 component up to the low rate threshold, reducing the rate of tax for those aged 60 and over to 0% would be an incentive for people to continue working past age 55. As with other benefit entitlements there needs to be an incentive to encourage people not to cash their superannuation lump sum until after they have attained age 60.

SCOA is concerned that, by taxing the post-83 component of superannuation lump sums above \$700,000 at the top marginal tax rate, the Government is continuing to apply an artificial RBL to these lump sum payments when no such restriction will be placed on superannuation lump sums paid from a taxed source. Many recipients of superannuation lump sums paid from an untaxed source have paid surcharge on notional employer superannuation contributions over the nine years before the surcharge was abolished. By taxing the post-83 component of superannuation lump sums paid from an untaxed source at the top marginal tax rate of 45%, it is effectively taxing the post-83 component in excess of \$700,000 at 60% (45% MTR plus 15% surcharge). This is inequitable when compared to superannuation lump sums paid from a taxed source which are tax-free.

SCOA considers that the \$700,000 threshold applying to the post-83 component of superannuation lump sums paid from an untaxed source should be abolished for those aged 55 to 59 and aged 60 and over. SCOA recommends the tax rates for the new superannuation arrangements should be as follows (see table on next page):

<b>Taxpayer</b>	<b>Current tax on post-83 untaxed component</b>	<b>SCOA recommendation for tax on post-83 untaxed component</b>
Under age 55	30%  Excessive 47%	30% on total post-83 component
Age 55 to 59	15% up to low rate threshold (\$135,590)  30% on amount above low rate threshold  Excessive 47%	15% up to low rate threshold (\$135,590)  30% on amount excess to the low rate threshold
Age 60 and over	15% up to low rate threshold  30% on amount excessive to low rate threshold  Excessive 47%	0% up to low rate threshold (\$135,590)  15% on amount excess to the low rate threshold

SCOA notes that under the current tax arrangements only 85% of the untaxed element of the post-83 component is counted towards the RBLs. Therefore, if it is proposed to tax an amount that is excess to the current RBLs at the top marginal tax rate, the amount should be grossed up to include the 15% of the part of the post-83 component that is not subject to the RBLs. Therefore, to retain equity, the amount that should be subject to the top marginal tax rate should be the excess over \$825,000.

**(17) ABOLITION OF ASSET TEST EXEMPTION FOR A COMPLYING PENSION****SCOA Recommendation:**

- **That the Age Pension asset test exemption of 100% be re-introduced for recipients of lifetime non-commutable complying pensions and that a cap be placed on the amount to be exempt.**

SCOA is concerned about the proposal to abolish the asset test exemption. By abolishing the asset test exemption there will no longer be an incentive for retirees to take a complying pension. In fact the proposals, coupled with abolishing the asset test exemption, mean that there is no longer any incentive to take a complying non-commutable pension. This in turn will encourage a greater emphasis being placed on lump sum rather than income streams.

SCOA considers that an asset test exemption of 100% should be provided where the recipient takes a non-commutable lifetime complying pension.

The simple solution for addressing potential abuse of the 100% exemption is to set an upper limit on the assessable amount and index it to AWOTE (Average Weekly Ordinary Time Earnings) on a six-monthly basis so that the benefits it provides are not able to be abused by a minority of senior citizens with considerable means.

## **ATTACHMENT A**

### **ABOUT SCOA**

The **Superannuated Commonwealth Officers' Association (Federal Council) Inc. (SCOA)** is 83 years old; it is non-political, not for profit and financed entirely by its members. It represents the interests of:

- Retired Australian and Territory Government employees, Government business enterprise employees and their families who are in receipt of pensions from any of the CSS, PSS, and OS 1922 superannuation schemes;
- People in the public service who will receive a Commonwealth superannuation benefit (or lump sum) on retirement; and
- Former Commonwealth and Territory employees who have deferred (preserved) their pension entitlement.

At 30 June 2005 there were 408,894 members of the CSS, PSS and OS 1922 schemes, being:

123,807 pensioners; 186,894 contributors; and 98,253 who had preserved their benefits.

**SCOA** helps its members by focusing on issues relating to:

- Superannuation changes and related indexation provisions
- Taxation concerns
- General financial information
- Concessions
- Social Security benefits
- Comcare compensation
- Health
- Residential and aged care planning
- Mature age employment.

**SCOA** monitors development of legislation and policies by Government. It represents the interests of its constituency in various forums. Where appropriate, it lobbies Members of Parliament and Government bodies to maintain and improve conditions for Commonwealth superannuants and superannuation contributors.

**SCOA** networks with other national and state organisations to exchange views on retirement issues. These organisations include ACPSRO and the Regular Defence Force Welfare Association (RDFWA).

## ATTACHMENT B

### COMMONWEALTH SUPERANNUATION SCHEMES

Prior to July 1976 the superannuation of Australian Government public servants was covered by the *Superannuation Act 1922*. There are no longer any members contributing under the *Superannuation Act 1922*. However, some pensioners and preserved members remain entitled to benefits under this Act and the liabilities in respect of these members are included in the CSS Unfunded Liability.

The **Commonwealth Superannuation Scheme (CSS)** was introduced on 1 July 1976. Its operations are governed by the *Superannuation Act 1976* as amended, and associated regulations. The CSS has been closed to new members since 1 July 1990. All CSS contributors at 1 July 1990 were given the option of transferring to the PSS. A further option to transfer to the PSS was provided in 1996 for a limited period of time. The current membership of the CSS covers Australian Government employees who were members on 30 June 1990 and who have not transferred to the PSS.

The **Public Sector Superannuation Scheme (PSS)** was established on 1 July 1990 on the basis of a Policy Statement ('the Reform Statement') made by the then Minister for Finance on 15 October 1989. The *Superannuation Act 1990* and a Trust Deed and Rules govern its operations. The PSS was closed to new members from 1 July 2005. Employees of Australian Government agencies prior to 1 July 2005 were eligible for membership of the PSS.

Most employees of Australian Government agencies who commence employment on or after 1 July 2005 are eligible to join the **Public Sector Superannuation Accumulation Plan (PSSap)** which was established on 1 July 2005.

The PSS and CSS are defined benefit schemes but the CSS is a hybrid scheme in that it includes an accumulation component.

The PSSap is an accumulation scheme and as such is a taxed scheme.

The average ComSuper pension for Commonwealth and Defence Force superannuants is in the order of \$21,000. The following table demonstrates the pension distribution.

#### Combined Commonwealth & Defence superannuant pensions as at 30/6/05

\$'000	No.	%	Cum. %
<10	25,179	13.57	13.57
10 – 19	75,726	40.80	54.36
20 – 29	50,135	27.01	81.37
30 – 39	22,284	12.01	93.38
40 – 49	8,161	4.40	97.78
50 – 59	2,742	1.48	99.25
60+	1,385	0.75	100.00
<b>Total</b>	<b>185,612</b>	<b>100.00</b>	
2004/05 Expenditure = \$3.87 billion			