Kate Ellis MP
FEDERAL MEMBER FOR ADELAIDE

Date: 20 AUG 2012

Mr Theo Marinis
Director and Financial Strategist
Marinis Financial Group
67 Kensington Road
KENSINGTON 5067

Dear Mr Marinis

Following representations made by Kate to the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, Kate has now received the Minister's response, a copy of which is attached for your reference.

Kate also apologises for the lengthy delay, due in part to the 2012/13 Budget considerations.

Yours sincerely

Pauline Cusack
Office of Kate Ellis MP
Federal Member for Adelaide

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Office of the Hon Kate Ellis MP
Received
03 AUG 2012
Minister for Employment Participation
Minister for
Early Childhood and Child Care

THE HON BILL SHORTEN MP
MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS
MINISTER FOR FINANCIAL SERVICES AND SUPERANNUATION

The Hon Kate Ellis MP
Minister for Employment Participation
Minister for Early Childhood and Childcare
Parliament House
CANBERRA ACT 2600

01 AUG 2012

Dear Minister

Thank you for your personal representations of 19 March 2012 on behalf of Mr Theo Marinis, Director, Marinis Financial Group, 67 Kensington Road, Norwood, SA 5067, concerning excess contributions tax. I sincerely apologise for the delay in responding to you.

The Government offers significant tax concessions towards the retirement income system. To ensure that the tax concessions remain sustainable, the Government must cap the size of contributions into superannuation. The contribution caps ensure that individuals save gradually over the course of their working life and that substantive sums of money are not transferred into the concessionally-taxed superannuation system. The excess contributions tax (ECT) removes the tax concessions on earnings from the excess concessional contributions held in superannuation. The high rate of the ECT was a deliberate design of the legislation, introduced by the Opposition when in Government, to encourage compliance with the contribution caps.

However, the Government has taken action to help reduce the impact of less significant excess concessional contributions. The Government introduced legislation into Parliament so that eligible individuals will be able to take excess concessional contributions out of their superannuation fund, and to have them assessed instead as income at their marginal rate of tax. The Bill passed Parliament on 18 June 2012 without amendments. This reform will make the superannuation system fairer.

The measure will apply where an individual has made excess concessional contributions of up to $10,000 (not indexed) in a particular year. It will only be available for contributions made in respect of 2011-12 or later years, and only for the first year in which they occur.

To help individuals avoid exceeding their non-concessional contribution caps, superannuation funds must not accept any single contribution that exceeds the non-concessional contributions cap. In deciding whether to accept a non-concessional contribution, superannuation funds are not required to aggregate the total contributions for a member, either within the fund or across other funds. The rules were intended to reduce the instances of inadvertent excess contributions where the contribution is a one-off in a financial year. A fund is required to return the relevant amount to the person within 30 days of becoming aware of them exceeding the relevant cap.

If contributions exceed both the concessional and non-concessional contributions caps in a financial year, the excess amount could end up being taxed at 93 per cent overall. This is to ensure people on high incomes cannot circumvent the non-concessional cap by making excessive concessional contributions. However, there are only very limited situations where an effective tax rate of 93 per cent could actually be applied. In particular, the person would need to have made contributions of over $475,000 in a year (depending on the person's age). So in most cases the effective ECT rate will not exceed 46.5 per cent.

The contributions caps and ECT are important measures which ensure Australia's retirement income system will remain sustainable and equitable in the future.

I trust this information will be of assistance to Mr Marinis.

Yours sincerely

Bill Shorten

BILL SHORTEN