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14<sup>th</sup> February 2014

Senator the Hon. Arthur Sinodinos AO  
PO Box 6100  
Senate / Parliament House  
CANBERRA ACT 2600

Dear *Senator Sinodinos*

### **Superannuation Issues**

This is my first communication with you in your role as assistant treasurer, and I do so in the belief that it is important that our government has an ongoing dialogue with industry professionals in relation to superannuation issues.

Firstly, I take this opportunity to congratulate the government for its decision to scrap the tax on Account Based Pensions earning over \$100,000. This tax would have netted the government very little revenue and would have caused immense frustration in the community.

I also make the comment that it was pleasing, in the dying days of the previous government, to see the Excess Contributions Tax for Concessional Contributions made more equitable. The previous rule was unnecessarily punitive, and not compatible with the spirit of shared responsibility for retirement saving.

### **ECT Treatment of NCCs**

Following this logic, there is a strong case now, to bring the current ECT treatment of Non-Concessional Contributions in to line with this approach.

As the legislation currently stands, is still possible for an inadvertent breach of the NCC cap by as little as \$1,000, to generate penalty tax of more than \$100,000 (refer case study attached). As per my communication to Senator Cormann dated 23 August 2013, which I understand he has forwarded to you, the associated penalty tax is disproportionate to the breach, and inconsistent with the treatment of excess concessional contributions. Notwithstanding the conflict with the Government's long standing encouragement of individuals to provide for their own retirement, it seems also extremely unfair to impose such a high penalty on monies which have already been subject to tax.

A reversal of ECT on non-concessional contributions (in line with the ECT CC rule amendment) would have minimal revenue effect when measured against the long term benefits which will be gained from the reinstatement of incentives to individuals for boosting retirement their savings.

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## **ABP Income Deeming**

Finally, I would add my endorsement to the recommendations that a Coalition government reconsider the account based pension deeming rule, which will do little to encourage retirees to manage their retirement cash flows. Far from reducing the cost burden of social security, this rule, which encourages Australians to squander their 'deemed' retirement savings – will instead, see them qualifying for increased Centrelink support sooner than they otherwise would have. Clearly, this is an outcome which is not in the national interest.

I look forward to the opportunity for continued dialogue in respect these and similar matters. Should you or your staff wish additional information or clarification on any of the issues raised in this letter, please feel free to contact me.

Sincerely

**Theo Marinis B.A, B.Ec, CPA, CFP®**  
**Financial Strategist**  
**Authorised Representative**

Encl:





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7<sup>th</sup> September 2012

The Hon. Bill Shorten MP  
Minister for Employment and Workplace Relations  
Minister for Financial Services and Superannuation  
Parliament House  
CANBERRA ACT 2600

**COPY**

Dear Sen. Shorten

### **EXCESS CONTRIBUTIONS TAX (ECT)**

Someone on your staff is not advising you well on ECT – it is a real issue - and it is hurting ordinary people.

Any system which can cause a \$1,000 Non Concessional Contribution (NCC) mistake to penalise a person \$139,000 is wrong\*. The ECT system did not foresee such unfortunate penalties when passed by Parliament. After all, tax cheats are only taxed at 46.5%!

Your adviser needs to understand that not every working Australian gets a regular pay cheque. For example, farmers, trades persons, small business people, freelance journalists receive sporadic and unpredictable money. Many people have more than one employer such as some doctors or academics.

Working people often get a "balloon" payment when they finish employment, such as a redundancy or a "golden handshake". This final pay cheque should go straight to their super and keep them off the public purse for as long as possible, but the current ECT laws make buying a boat or going overseas more attractive!

The current ECT system fundamentally does not allow for human error – and a one-off \$10,000 Concessional Contribution (CC) 'fix-up' limit is simply a PR move to say the problem is fixed.

Even this "remedy" only deals with CC cap breaches, there is no relief for NCC Bring-Forward breaches, such as that mentioned above and demonstrated in the table below!

The Parliament, and you as the relevant Minister, have an obligation to review and amend legislation that is not functioning as intended to the very great detriment of many honest, ordinary, Australian people. You **MUST** do something about this!

Your adviser thinks about super from the wrong angle. We should encourage all Australians to put as much away for retirement as possible, up to a reasonable limit – not setting financial traps for those who want to provide for themselves in retirement as ECT does.

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This is my final correspondence to you on the subject. I hope you will use this letter to challenge your adviser, to shake them into some real world thinking and to amend the legislation.

Sincerely

Theo Marinis B.A., B.Ec., CPA., CFP®  
Financial Strategist  
Authorised Representative

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\* An example of a Bring-Forward Strategy gone wrong – and the awful penalty for a simple mistake!

FINANCIAL YEAR	DATE	NCC AMOUNT
2010	July 2009 June 2010	\$ 1,000 due to an NCC for Co-contribution purposes \$150,000 NCC having overlooked previous \$1,000 NCC*
2011	June 2011	\$150,000 NCC
2012	June 2012	\$450,000 NCC based bring forward NOT triggered
TOTAL NCC's ASSESSED		\$751,000 (2010 – 2012)
ECT PENALTY		\$301,000 taxed at 46.5% = \$139,965

THIS PENALTY IS TERRIBLE FOR EFFECTIVELY ONLY A \$1,000 OF OVERLOOKED CONTRIBUTION. THIS WAS **CERTAINLY NOT** WHAT THIS LEGISLATION WAS DESIGNED TO AVOID!

\* HOWEVER THE THREE YEAR BRING-FORWARD WAS TRIGGERED UNINTENTIONALLY BY THE OVERLOOKED \$1,000 NCC IN JULY 2009

