Australian Government

The Treasury

Ref: MC18-001007

25 JUN 2018

Mr Theo Marinis
Managing Director
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Dear Mr Marinis

Thank you for your correspondence of 14 February 2018 to the Minister for Revenue and Financial Services concerning the superannuation system. The Minister has asked me to respond to you.

I sincerely apologise for the delay in responding to you.

I note your desire for a simple and understandable retirement savings system. As you may know, the objective of the superannuation system is to provide income in retirement to substitute or supplement the Age Pension. As such, supporting this objective is the Government's primary concern when making changes to the system, along with ensuring fiscal sustainability of the system. While a simple system can be beneficial, it is more important that the system supports its objective and remains sustainable in the long term.

I also note your concern that the 10 per cent tax break on unfunded defined benefit (DB) pensions represents a substantial tax revenue leakage. The superannuation system purposely provides significant tax concessions to encourage retirement savings. The Government also considered the lifetime effective tax rate of income streams provided by other types of DB schemes and defined contribution schemes when setting the level of this tax offset. The level was set to generate broadly commensurate tax outcome across different types of superannuation schemes.

I note your suggestion to reintroduce asset test friendly 'long term' income streams. The Government announced new means test rules for lifetime retirement income streams in the 2018-19 Budget. These rules provide a fair and consistent means test treatment of all retirement income products. This announcement helps to remove the barriers to the development of lifetime income products.

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The development and take up of these products will be support by the introduction of the Government's retirement income framework, which will require superannuation trustees to offer Comprehensive Income Products for Retirement (CIPRs) to members with limited exemptions. CIPRs will provide income for life and help retirees to draw down on their retirement savings more efficiently during retirement. More information on the new means test rules and the retirement income framework is available here: https://www.budget.gov.au/2018-19/content/factsheets/3-financially-prepared.html#rif.

Once again, thank you for taking the time to write.

Yours sincerely

Darren Kennedy
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14th February 2018

The Hon. Ms Kelly O'Dwyer
Minister for Revenue and Financial Services
PO Box 6022
Parliament House
Canberra ACT 2600

Dear Ms O'Dwyer,

Fixing the superannuation system: Some thoughts from the Tax Institute Tax Counsel on super reforms

As an Australian Financial Services Licensee, with some considerable career experience within the ATO, ISC and Centrelink, I feel a responsibility to draw your attention to an article by Bob Deutsch (CTA) entitled "Superannuation: A new simple 15/15/0 regime"

The article, reproduced below, advocates changes for a simple and understandable retirement savings system. I am of the view that such changes pave the way to a sensible fix for the mire which currently engulfs superannuation policy – policy which has been formulated by ministerial 'advisers' who at best, do not understand the interface between long term savings, tax and social security.

The inability to reconcile this fundamental practicality has resulted in a deeply flawed approach to superannuation. We now have a system prone to anomalies which produce a better Centrelink outcome for a couple to buy a bigger house than to hold more than $350,000 in super.

In addition, we have senseless arbitrage opportunities at the cost of substantial tax revenue leakage – arising from, for example, the 10% tax break on unfunded defined benefit pensions.

Ostensibly, this particular tax break for unfunded pensions was legislated as part of the Simple Super rules in 2007/08, to make up for the fact that fully funded superannuation pensions were made tax exempt after age 60, to discourage 'double dipping'.

In fact, there was never any logical policy reason for providing such a massive tax break to unfunded defined benefit pensioners, given that they cannot 'double dip' their DB pensions, which are set at a predetermined rate and paid for life.

Superannuation tax concessions should be used to encourage behaviour beneficial to the individuals concerned, and the tax payers providing that concession.

In the case of super, they are to encourage capital preservation for retirement. They should not provide a large tax free-kick to the pampered few, for no logical or valid policy reason.

Perhaps a much better use of revenue, if Account Based Pensions must be deemed for the Centrelink income test, and the Asset Test re-set (as per the 1 January 2017 changes) would be to re-introduce Asset Test exempt/friendly, 'long term' income streams. This would provide far greater encouragement for investment of retirement savings.

Under the current anomalous regime there is far more incentive to blow it all on holidays, unnecessary home renovations or larger tax and Centrelink exempt homes.

distinctly different

It may be that the revenue cost of reintroducing such Asset Test friendly 'long term' income stream products could be largely funded by unwinding the 10% tax break on unfunded defined benefit pensions.

I share the article below in the hope that it will provide some stimulus to ministerial thinking – and perhaps serve some use as a tool of reason when debating with public servants (who clearly, seem to prefer complexity, self-interest and opacity over clarity).

Should you require input on any of the 'front line' implications of superannuation policy, I would be more than happy to assist.

Sincerely,

Theo

Theo Marinis

Managing Director

Senior Tax Counsel's Report

25 January 2018

Superannuation: A new simple 15/15/0 regime

At its most fundamental, superannuation is all about money being set aside throughout one's working life so as to provide an adequate level of funding for one's retirement. For many Australians, the superannuation nest egg is usually the second largest asset that they will ever hold – the largest being the family home.

One would have thought that the idea that a fund could be set aside for each and every Australian to provide for their retirement funding would not be a complicated process and would not lead to convoluted legislation. How wrong one can be!

A key objective of a tax system is simplicity, and yet in the context of superannuation, we are as far away from that objective as ever.

In my opinion, our political masters both past and present, should hang their collective heads in shame at the appalling state in which we now find superannuation. For the average person, the concepts that underpin superannuation are complex, abstract and basically beyond understanding.

It is no answer to say that you shouldn't worry about all that because for most of you none of it matters. The noise that emanates from the media regarding concepts such as the $1.6M cap (times two), concessional and non-concessional contributions, limited recourse borrowing arrangements, commutable and non-commutable pensions and the like, generally scares the average punter into thinking that superannuation is not for them. However, nothing could be further from the truth and the reality is that it is quite absurd how little attention is paid by the average Australian to their superannuation. Every Australian needs to make the time and the effort to look after what could and should be their second largest asset.

How could this be fixed?

We need to focus our attention on what is important in the context of superannuation, and this calls for a system with some basic simple underpinnings as follows:

1. All super should be about accumulating funds for retirement – funds should be accumulation funds only;

2. Mandatory deductible contributions must be made for each employee at 15% of salary per person per year capped at $25,000 per year per person. Non-employees must contribute at the same rate based on "occupational income";

3. A further contribution should be allowed for each and every individual of $50,000 per person on a non-deductible basis;

4. The deductible contributions would be taxed upon receipt by the fund at a 15% flat rate with no refunds for excess imputation credits. Non-deductible contributions would not be taxed in the fund;

5. All earnings within the fund e.g. interest, rent, dividends, would be taxed at 15% flat rate with no refunds for excess imputation credits;

6. From age 65, funds can be withdrawn tax free each year from superannuation by way of a pension up to 10% of the balance held at the beginning of the year. That pension payment would be tax free to the recipient;

7. Upon reaching the age of 85, the balance that is then in the fund can be freely dealt with;

8. Contributions, both deductible and non-deductible, can be made within the limits specified above up to the age of 75, irrespective of whether the person is working or sitting idly all day sipping coffee;

9. Subject to the next point, any withdrawal from super prior to the age of 65 would be taxed at the top marginal rate. Between the age of 65 and 85, any withdrawal in excess of the pension amount specified above would be taxed at the top marginal rate;

10. Special circumstances of hardship would be considered so as to allow for withdrawals either before the age of 65, or withdrawals above the allowed pension amount where aged between 65 and 85;

11. Limited recourse borrowing arrangements would be expressly prohibited. There would be no arrangements for first home buyers to access super, and no arrangements to allow additional contributions for aged 'downsizers'. I am very firmly of the view that superannuation is for the purposes of superannuation - that is providing retirement incomes for Australians. This should not be tinkered with, in any way. If there is concern about access to the housing market, this should be addressed by methods that do not tinker with what is otherwise available within the constructs of superannuation.

If we stick to these principles, we get a simple outcome for all – 15% on the way in; 15% on the way around; and 0% on the way out. And it could all be done within the parameters of a legislative framework that is simple, concise, and readily understandable.

We welcome your thoughts

Kind regards,
Bob Deutsch, CTA