

File: 50/01  
25 July 2006

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

Dear Sir,

The Australian Council of public Sector Retiree Organisations Inc., (ACPSRO), is the Peak Council representing the interests of Commonwealth, including the military, State and Territory public sector organisations. Our interest is focused on retirees in receipt of superannuation benefits as either pensions, lump sums or a combination of both.

ACPSRO and its constituent bodies strongly support the Government's proposals to simplify and streamline superannuation. We consider that what is proposed will be of worthwhile benefit to retirees, particularly those currently receiving their superannuation benefits as regular pensions. The Government, and Treasury, is to be complimented on this important initiative.

We believe that the regulatory and taxation provisions that have grown up in relation to superannuation have hindered the full development of superannuation as a means of providing for retirement. The Government's proposals will establish a new framework which will provide the basis for a much more effective and comprehensive system.

We continue to be disappointed that nothing has been done to improve the unfair system of indexing public sector pensions, but the ten per cent rebate for public sector pensions will certainly help and will deliver significant relief from 1 July, 2007

Comments on more detailed aspects of the proposed new arrangements are set out in the attachment and in the separate submissions of some of our constituent bodies.

Thank you for the opportunity to submit comments on the proposals and for the information that you have previously provided to us.

Yours sincerely,

R Dean  
National President

## **General observations**

1. The Australian Council of Public Sector Retiree Organisations Inc, (ACPSRO), subject to recommended changes outlined in this submission, supports the proposed 10% offset for recipients of pensions paid from untaxed public sector superannuation schemes and welcomes this Government initiative.
2. The benefit to retirees taking their superannuation as lump sums cannot be judged until the rules have been proposed for conversion of lump sums to other suitable retirement income streams. These income streams must then be subject to application of the proposed 10% offset as for recipients of regular superannuation pensions from untaxed source. In our view, the importance of lump sums being available for conversion to retirement income streams cannot be over-emphasised and this matter is given further attention at paragraph 4 of this submission.
3. Although the Commonwealth's superannuation schemes have been used as guidance in preparing this submission, ACPSRO understands that the principles of the plan will apply to all other public sector schemes including those of the States and Territories. In this regard, ACPSRO's recommended changes, if accepted, must also be applied to those other schemes where relevant.

## **Conversion of lump sums to income streams**

4. Recipients of lump sums provided for under public sector superannuation schemes should be encouraged by financial incentives to convert their lump sum benefits to retirement income streams. Retention as lump sums which are generally dissipated will not help reduce the claims made for either full or part Centrelink pensions.
5. Lump sums for conversion should be allowed to include payments provided as components of the retirement benefit such as the defined benefit unfunded employer amount, the contributor's contributions, co-contributions as well as invalidity and productivity components (contributor's post 1983 payments into the funds are taxed payments being taken out of net pay).
6. Deciding which institution to approach and which particular type of income stream is the most appropriate for a retiree's circumstances takes time to finalise and therefore provision needs to be made for the retiree's superannuation lump sum to be held in an interest bearing account for say 3 months pending conversion.
7. ACPSRO recommends, if not already provided for, that retirees from the public sectors, civilian and military, who have already converted their lump sum payments from their superannuation funds to retirement income streams, pre introduction of the Plan, and which are still supporting their retirement, must be participants in the proposed taxation benefits under the Plan such as the 10% offset.

## **Invalidity and death payments**

8. Provision exists under all of the Commonwealth's superannuation schemes, both civilian and military, for invalidity or death benefits to be paid when a member is invalided or dies. This Council understands similar benefits exist under some State and Territory schemes. The taxing of these invalidity components is not addressed in the two Treasury issued booklets about the Plan insofar as benefits paid from untaxed funds are concerned but proposals covering death benefits are set out in chapter 8.3.4. Death benefits are referred to under paragraph 12 of this submission.

9. Under the taxed schemes proposals, the post 1994 invalidity component as an ETP lump sum is currently tax exempt and will be tax exempt under the Plan (Treasury detailed outline booklet page 14 table 2.1 refers).
10. Under the Commonwealth's untaxed schemes, invalidity components paid as pensions are included as part of the total superannuation pension benefit paid. That is, they are not separately identified and are taxed at the Marginal Tax Rate (MTR).
11. Personnel in the workforce contributing to the Commonwealth's superannuation schemes, except perhaps Limited Benefit Members (LMB's) under the provisions of the PSS, do not know if they are likely to be invalided and the Commonwealth as the employer underwrites this possibility as a self insurer. A variation does however arise where LBM's under the PSS scheme exercise an option for increasing their invalidity/death cover by paying an insurance premium of which the Commonwealth will pay half of a 'standard cover premium'. Clearly here, invalidity benefits attributable to the employees paid premium must be tax exempt.
12. Death benefits paid as lump sums are proposed to be tax exempt but when paid as reversionary pensions the benefit received by an under 60 years recipient is treated as for a superannuation pension benefit and taxed at MTR. For those over 60 years the 10% offset is applied. This does not seem fair or reasonable when the benefit is paid as a reversionary pension. Recognising that the Commonwealth, or the employer, carries the risk for either invalidity or death benefits, in the interest of equity and fairness in the treatment of beneficiaries receiving invalidity/ death payments under taxed or untaxed schemes, payments as reversionary pensions, like lump sum payments, must also be tax exempt.

### **Payments to a Surviving Spouse**

13. Provision is made under all Commonwealth schemes (except the 1922 Act) i.e. the CSS, PSS, DFRB, DFRDB and the MSBS for a lump sum payment, upon the death of a former contributor superannuant, to the surviving dependant spouse. This payment is the sum of the difference between the former contributor's full pension rate for seven pays and the then reduction to the spouse rate, which, depending on the scheme, varies up to 67% but is for example, 67% in the case of the CSS. The payment is made as a 7 pay period lump sum if the death is notified to ComSuper promptly but in some cases, the full rate may continue to be paid into the deceased superannuant's account for say one or two pay periods before notification of the death and thus the lump sum is reduced accordingly.
14. The lump sum payment is currently taxed at MTR but ACPSRO considers the payment should be treated as an Eligible Termination Payment (ETP) and not taxed. This was taken up with the ATO by ACPSRO on 12 August 2003 and a ruling was given dated 13 October 2003 advising the payment in the circumstances was an ETP and exempt from tax. (Copy of ruling attached.) This ruling was then discussed with ComSuper with a view to implementation but ComSuper disagreed with the ruling based on their interpretation of the applicable section of the Tax Act, and, in due course the ATO ruling was withdrawn. ComSuper at the time did however believe it was a matter ACPSRO should pursue to have the payment validated as an untaxed ETP paid to a dependant. ACPSRO recommends, in the context of the Plan, that this lump sum payment be determined as being tax exempt.