

17 July 2006

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

Dear Sir

**A PLAN TO SIMPLIFY AND STREAMLINE SUPERANNUATION  
Cap on Post-Tax Contributions**

I refer to the Government's Budget proposal to cap post-tax contributions to \$150,000.

On 13 June 2006 the Treasurer issued a Press Release announcing that the Government will "allow the cap to be averaged over three years to allow people to accommodate larger one-off payments".

Subsequently a Fact Sheet was published on the Treasury website, [simplersuper.treasury.gov.au](http://simplersuper.treasury.gov.au) providing further detail on the averaging mechanism.

I am concerned with the proposal to require persons nearing age 65, to meet the work test, in respect of the time that a post-tax contribution is attributed to the period after they turn age 65. The Fact Sheet states that "if the person did not satisfy the work test at age 65 the contributions would be returned to them and the earnings on the excess contributions would be effectively taxed at the top marginal tax rate."

This proposal overly complicates an otherwise simple rule, and could lead to unduly harsh tax treatment. Consider the circumstance of a 64 year old that makes a \$450,000 post-tax contribution, from the proceeds of the sale of a residence. (He has taken the opportunity, to downsize his residence, now that the children have left home, and reinvest the surplus proceeds in superannuation.)

At the time of making the contribution he is in good health, and intends working beyond age 65. At age 65 and 6 months, he is struck down with cancer, and forced to retire, (alternatively he maybe made redundant). Under this proposal a portion of his contribution is refunded and he will be taxed at a penal rate on the earnings of the refunded contribution. A harsh outcome arising from a circumstance over which he had no control.

The proposal to retrospectively apply a work test to a contribution made prior to age 65 is unnecessarily harsh, and prejudicial to persons aged over 63. It is contrary to the Treasurer's Press Release of 13 June 2006, allowing people to "accommodate larger one-off payments". Any legislation that can result in a retrospective tax adjustment to persons who may in fact already be financially disadvantaged as a result of ill-health or redundancy is bad law.

I encourage Treasury to scrap this particular proposal.

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In my view a better and simpler proposal would be to provide for a rolling three year average of \$150,000 per annum. If a person had not made post-tax contributions in the preceding three years, they should be allowed to make a single contribution of \$450,000. The maximum contribution of \$450,000 would be reduced to the extent that post-tax contributions were made in the preceding three years. This would eliminate the spectre of a penal tax, whilst preserving the integrity of the \$150,000 average contribution. In my example the 63 year old could confidently make a contribution of \$450,000 without fear of a portion of their contribution being refunded after age 65.

Please feel free to contact me on 08 9480 2036 if you require any clarification of this submission.

Yours sincerely



**W J STEPHEN**  
Director