

26 June 2006



Law Council
OF AUSTRALIA

*From the Office of
the President*

TIM BUGG

Mobile 0418 583 166

president@lawcouncil.asn.au

The Hon Peter Costello MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer,

LIMITS ON UNDEDUCTED CONTRIBUTIONS TO SUPERANNUATION – ADVERSE IMPACT ON PERSONAL INJURY AWARDS

The Law Council is concerned about the Government's plan to limit undeducted contributions to superannuation to \$450,000, because of the adverse impact it will have on awards of compensation to the most seriously injured of claimants.

Under the 2006/07 Federal Budget the Government outlined a proposed 'Plan to Simplify and Streamline Superannuation'. As part of this plan, the Government proposes to restrict undeducted contributions to superannuation to \$450,000 every 3 years.

Prior to this change, people who satisfied the criteria for Total and Permanent Disability (TPD) were able to contribute any lump sum they received by way of damages toward superannuation, without incurring a tax liability, and were able to access their superannuation by way of an allocated pension. There were a number of tax advantages applicable to this arrangement:

- No contributions tax was payable on amounts placed in superannuation;
- Investment returns (including capital gains) within the allocated pension were not subject to tax;
- A portion of the annual pension income was exempt from income tax; and
- The portion of the annual income that was subject to tax attracted a tax offset of 15%.

TPD plaintiffs do not receive any benefit from 'early receipt' of a lump sum, as discount rates are applied to damages payouts to reduce the sum by an amount equivalent to the interest likely to be earned from investing the sum for the remainder of their life expectancy.

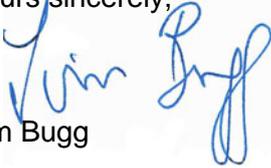
The Federal Government has demonstrated a willingness to provide tax relief to compensation claimants in the past, by legislating to allow for structured settlements. Unfortunately, the pricing of lifetime indexed annuities in Australia makes the use of structured settlements financially disadvantageous to persons who are successful in personal injury suits.

The Law Council believes the proposed plan should be amended to provide an exception from the restrictions on undeducted contributions for those who satisfy the criteria for TPD. Benchmarking against this criteria will ensure the exemption assists only those who are seriously disabled.

The Law Council is aware that a submission prepared by the Australian Lawyers Alliance has been made to the Treasury and the Law Council supports the general thrust of that submission. In the interests of ensuring seriously injured or disabled people in this situation are not disadvantaged by these budget initiatives, the Law Council asks that you give this matter your urgent attention.

Should your Departmental Officers or advisers wish to discuss this matter, please contact Nick Parmeter on (02) 6246 3715.

Yours sincerely,



Tim Bugg