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EQUITY IN TAXATION? NOT FOR PUBLIC SERVANTS ON A PENSION

I refer to the recent announcements on taxation of superannuation by the Honourable The Treasurer, Mr. Peter Costello, in which he announced significant changes to taxation of superannuation benefits. In essence, benefits paid to persons over 60 years of age in the form of either a lump sum or a pension was to be tax free as of 01 July 2007. The details are contained in *A Plan to Simplify and Streamline Superannuation* at <http://simplersuper.treasury.gov.au> . Please consider this communication to be a submission in response to that publication.

While these tax breaks will apply to many retired Australians, they will not apply to most Public Servants because schemes such as the Commonwealth Superannuation Scheme (CSS) and Public Service Superannuation (PSS) are deemed “untaxed” schemes. Essentially, the member makes taxed contributions as with any other superannuation scheme, but the government employer contributions are only paid at the time that the benefit is taken at retirement of the public servant. The taxation burden for that benefit is effectively passed to the member.

If a lump sum is taken, I suggest that it *would* be appropriate to take due cognisance of the untaxed nature of the employer contribution when determining the amount of tax that should be applied to a lump sum payment. However, if the benefit is taken as a pension, I contend that the proposed taxation arrangements for untaxed funds may in some circumstances be inequitable.

Under the current arrangements, if the benefit is taken as a pension then there is already a taxation concession for the component that arises from the employee contributions. The proposed changes would also provide a further 10% concession, with the remainder of the benefit derived from the government employer contribution taxed at the marginal rate. My assertion is that the proposed taxation arrangements do not make due allowance for a further potential impost imposed by the structure of pension payments from government funded untaxed superannuation schemes.

In conventional non-government (taxed) schemes, if the beneficiary dies the balance of the entire superannuation entitlement *including the employer contributions* is paid to the estate of the member. A disparity arises when a retired public servant dies without dependants, because the estate of the member of an untaxed scheme does NOT receive any payment of what would have constituted the residue of the employer contributions. The only money transferred to the estate of the member is the balance if any of the member contributions plus interest. *There is never any payment of the government employer contribution to an estate of a deceased member without dependants.* Because of the way the funds are dispersed, the member contributions are drawn first, so there is a high probability that the government retains a substantial proportion of the balance of the employer contribution in the event that the member dies at a relatively early age. This is in effect a pseudo death tax that applies only to pensions drawn from untaxed superannuation schemes with the effect of depriving the member’s estate of a substantial entitlement.

This is in direct contrast to the situation where a member takes his entire entitlement as a lump sum and derives his entire employer contributions and is taxed accordingly. I therefore suggest that there is sufficient justification to provide a more liberal approach to taxation of superannuation payments from untaxed funds where the benefit is taken wholly or partially as a pension. I concede that there have been taxation benefits that accrue from the manner in which the fund has been generated, but I

do not believe that the current proposed taxation method takes due consideration of the potential loss of entitlement that only applies to pensions drawn from such untaxed schemes.

I contend that the proposed 10% taxation concession is inadequate compensation for the potential loss of entitlement that only exists when a pension is taken. I would suggest that a better approach would be that where a benefit is taken as a pension, then the amount to be taxed at the marginal rate should not exceed 50% of the income derived from the pension.

I request that this submission be taken into consideration when finalising the legislation to enact these changes to taxation of superannuation.

Regards

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