

8 August 2006

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

Dear Sir/Madam

2006 Federal Budget submission

VicSuper would like to provide the following submission on the proposed changes as announced in the 2006 Federal Budget and outlined in the Federal Government's 'A Plan to Simplify and Streamline Superannuation'.

Background

VicSuper Pty Ltd is the Trustee and administrator of VicSuper Fund. VicSuper Fund is a Victorian-based public offer superannuation fund of which any eligible individual in Australia can become a member. VicSuper Fund had over \$4 billion in assets, over 200,000 members and 6,000 participating employers at 30 June 2006.

VicSuper has a focus on member and employer education and helps members and employers make sense of superannuation. VicSuper also undertakes investments and operations using sustainability as the central operating principle. Sustainability is a way of operating and investing that recognises the dependence of the overall health of the economy on the long term availability of natural resources, a healthy environment, a productive workforce and cohesive societies. VicSuper is a not for profit organisation and we provide superannuation services to members at a low cost.

VicSuper agrees with the overall philosophy of the superannuation proposals outlined in the Federal Budget in keeping superannuation simple, therefore keeping costs to members low and improving the adequacy of retirement incomes for all Australians.

The following comments are provided in the order of the Chapters as outlined in the paper, 'A Plan to Simplify and Streamline Superannuation'.

Chapter 2 - Taxation of benefit payments

Reasonable Benefit Limits (RBLs)

Currently pensions purchased with benefits in excess of a member's RBL are not eligible for the tax rebate. After 1 July 2007 it is proposed to abolish RBLs and it is not clear whether existing pensions at that date with an excessive component will be eligible for the tax rebate.

Recommendation: Allow existing pensions purchased with benefits in excess of a person's RBL to be eligible for the tax rebate.

2.2 Benefit payments to those aged 60 and over

To keep it simple the trigger should be the member's 60th birthday (ie any benefit payment received on/after a member's 60th birthday would be tax free even if it related to a period prior to the member's 60th birthday) For example, an allocated pension member receives a monthly pension payment at the end of each month. During the month of July the member turned 60. The actual pension payment paid at the end of July should be tax free.

Recommendation: make the trigger in relation to tax free benefits over age 60 to mean any benefits paid on/after the members 60th birthday.

2.3.1 Calculation of pre 83 component

Clarification is needed on how each superannuation fund will calculate a member's pre 1983 component. For example can a member supply us with written evidence of a service date from another fund or employer. We think members should be able to do this otherwise there is an equity issue for those members who cannot consolidate all their funds (eg. someone who has more than one superannuation account including an account with the Public Sector Superannuation (PSS) Scheme).

If the pre 1983 component is crystallised at 1 July 2007 the figure should be able to be amended by subsequent proof down the track (eg. if someone finds a lost super account with pre 1983 service).

Recommendation: Allow members to provide their superannuation fund with written evidence of another service date with either an employer or a superannuation fund and allow the crystallised pre 1983 figure to be amended (upon written evidence).

2.3.2 Pensions

In relation to non commutable pensions, in particular Term Allocated Pensions (TAPS). TAPS are a relatively new product and people purchase them if they have RBL issues or to increase their Centrelink benefits. After 1 July 2007 it is proposed to abolish RBLs but these particular members are locked into these long term products. In addition, the assets test for Centrelink is also proposed to change from 20 September 2007 and the amount members have in a TAP may no longer be the appropriate amount.

A once off commutation option should be offered to these members.

Recommendation: Allow a once off commutation offer to those members who have purchased a TAP.

In the proposal for pensions that commenced prior to 1 July 2007, it is intended that the current arrangements for calculating the deductible amount remain. This would be unfair to existing pensioners and would encourage them to commute and commence a new pension in order to obtain a higher deductible amount.

Recommendation: For these members allow the recalculation of the deductible amount without having to commute and commence a new pension.

2.4 Death benefits

In line with the philosophy of keeping super simple, consistency between the definition of dependant in ITAA and SIS would be beneficial.

In respect of death benefits there are unequal outcomes under the proposed changes. For example, a person aged 60 or over can receive a benefit payment tax free. However, if a person aged 60 or over dies while still a member of a superannuation fund then the benefit paid would incur tax if paid to a non-dependant.

Recommendation: Change the definition of dependant in the ITAA to be consistent with the SIS definition and make death benefits to non-dependants tax free if the member had reached age 60 prior to death.

Payment rules

3.1.2 Cashing rules

A positive outcome was the abolition of the compulsory work test for over age 65s from 10 May 2006.

For further simplicity, consideration should be made to abolish the work test for superannuation contributions for those aged 65 and over. Currently, a person aged 65 and over can only make contributions providing they have worked at least 40 hours in a period of not more than 30 consecutive days in the financial year in which the contributions are made.

As a separate issue, a lump sum death benefit could be received for example by a 66 year old who wants to re-contribute the amount into superannuation in order to commence an income stream, but under current work test requirements they may be precluded from doing this. Removing the work test for contributions over age 65 would allow this to occur.

Recommendation: for further simplicity and to encourage people to provide for their own retirement through superannuation, abolish the work test for superannuation contributions for those aged 65 and over.

3.2.2 Simplifying pension rules

Members with existing pensions should be able to move to the new regime as simply as possible without having to commute and commence a new pension.

In addition, clarification is needed on the proposed pension rule ‘no provision to be made for an amount to be left over when the pension ceases’. Does this mean no RCV is to remain at the end of the term? How does this provision relate to an allocated type product where there is likely to always be a balance in the account?

Recommendation: Members with existing pensions should be able to move to the new regime as simply as possible without having to commute and commence a new pension.

Chapter 4 - Contribution rules

Deductible contributions - \$50,000

4.3 Administrative arrangements for contributions tax

There are administrative issues surrounding the proposed changes to deductible contributions. It is proposed that the excess above \$50,000 is to be taxed at the top marginal tax rate. How will it be monitored when there is more than one employer or superannuation fund involved? One suggestion is that all superannuation funds will be required to report to the ATO and then the ATO will impose an invoice on a particular superannuation fund. However in the meantime the member could have rolled out, taken a withdrawal, commenced an income stream or simply due to a number of factors (including negative returns, deduction of insurance premiums) not have enough funds in their account to deduct the extra tax.

In addition, clarification is required to as to whether the tax is an impost on the member's superannuation fund account or whether it could be on the member direct.

Recommendation: If the tax is an impost on the member's superannuation fund account, for a more streamlined approach the ATO should invoice the member and the member either presents the invoice to the superannuation fund of their choice. The superannuation fund would then deduct the additional tax from the members account and forward it to the ATO.

If the tax is an impost on the member directly, then we suggest that it could form part of the individual's income tax return.

4.4.2 Proposed arrangements

Employers – It is proposed that employers would be able to claim a full deduction for contributions made to superannuation funds on behalf of their employees up to age 75. The SIS Regulations currently only allow employer contributions to be made generally up to age 70. Therefore if this proposal is legislated the SIS Regulations will need amending for consistency.

Recommendation: Amend the SIS Regulations to allow employer contributions to be made up to age 75.

Personal deduction eligibility – further clarification is required surrounding the eligibility for personal deductions.

Transitional arrangements for those aged 50 and over – this provision should be made permanent (ie not phased out at the end of 2011/2012). Many people don't have the capacity to save (salary sacrifice) until later in life. Under 10.1 (page 55 of A Plan to Simply and Streamline Superannuation), it states that under a fully mature SG system a person on an income of \$1,000 per week is projected to have accumulated superannuation benefits of approximately \$466,000 based in SG alone. However, those people currently aged 30 and over will at retirement age not have had the benefit of a mature SG system (ie. 9% over 40 years). In addition it does not take into account those with interrupted working lives which can in particular affect women, casual or part time workers. Therefore many people will need to contribute significant amounts later in life when they have the capacity to do so in order to be self sufficient in retirement.

Clarification is also needed on how any amount in excess of the proposed limit is classified (ie this should be an exempt amount).

Recommendation: Allow the transitional provision for those aged 50 and over to contribute up to \$100,000 p.a. (at the concessionally taxed rates) of deductible contributions to be extended indefinitely.

4.5 *Undeducted contributions*

Currently there are no limits on undeducted contributions, they are not assessed against the RBL and are not taxed on payment. Therefore, why is a cap of \$150,000 p.a. proposed?

If the cap is imposed we believe there should be some exemptions as follows:

- death benefits (eg. a person receiving a lump sum upon the death of their spouse), capping in this instance should not apply if they wish to re-contribute the amount to a superannuation fund
- Government co-contribution
- contribution to superannuation after the sale of residential home. It is common practice for a person close to retirement to sell their family home and some of the proceeds are then contributed to a superannuation fund in order to fund their own retirement. A statutory declaration from the member could be used to determine whether the contribution is from the sale of their residential property
- contribution to superannuation after the sale of a business (in cases where they are not eligible for a CGT exempt component)
- people who had a documented strategy in place prior to 9 May 2006 to make large personal contributions to superannuation.

Recommendation: exemptions to the capping limits are recommended.

4.5.1 & 4.5.2 *Refund of excessive contributions and administration*

In respect of a superannuation fund having to refund contributions in excess of \$150,000 and then tax the earnings on the excess at the top MTR and return the remainder to the member will be administratively complex and obviously will involve large system reconfigurations. In addition, retrospectivity would be a problem. The system would need to determine what amount was the excess portion and calculate the earnings on that excess amount. What happens in times of negative investment returns? In addition, is the refund purely a refund or considered an ETP? SIS will need amending to allow these contributions to be returned (because technically they would be preserved until a condition of release is met).

It would be simpler to determine up front and obtain a member declaration that they have not exceeded the \$150,000 capping limit for the financial year (or the \$450,000 capping limit over 3 years). If the member has or will exceed the capping limit then the superannuation fund does not accept the contribution. The ATO could still perform a check at the end of the financial year based on data supplied by superannuation funds.

Recommendation: Obtain a member declaration up front that that the capping limit has not or will not be exceeded for the current financial year (or the capping limit over 3 years).

Treasurer's fact sheet – 'post tax contributions'

In relation to members using the averaging of \$450,000 over 3 years. In particular those aged for example 64 who contribute \$300,000 must meet the work test requirements in the following year or the contribution would be returned and earnings on the excess contributions taxed at the top MTR. This is cumbersome on superannuation funds as again we would be monitoring work test requirements. The member may not know themselves that they will be satisfying the work test in the following year (ie. they may retire due to ill health, be retrenched or die). For simplicity and if the work test remains for contributions made by those aged 65 and over, then the work test should be satisfied at the time of the making the contribution. See also point 3.1.2 above recommending that the work test be abolished.

Recommendation: either apply work test at the time of making the contribution or remove the work test contribution requirements for those aged 65 and over.

Chapter 5 – Contribution incentives for the self employed

5.2.2 Proposed arrangements

When determining eligibility for the Government co-contribution, it is proposed that the income for self employed would exclude expenses incurred in carrying on a business. For consistency, this approach should also apply for employees when determining their eligibility for the Government co-contribution.

Recommendation: Allow employees a reduction for expenses when determining the income used to assess their eligibility for the Government co-contribution.

Chapter 7 – Other measures

7.2.1 Tax on contributions

It is proposed that in cases where a Tax File Number (TFN) has not been quoted to a taxed fund, the top marginal tax rate would apply where taxable contributions to that fund for a member exceed \$1,000. Administration issues are as follows:

- a superannuation fund would have to calculate taxable contributions in excess of \$1,000 and then apply interest at the top MTR – thus another system configuration
- what if a TFN was provided at a later date either by an employer or by the member themselves (eg 2 months later or even during the next financial year). Would a superannuation fund have to reverse this transaction, ie. reapply the tax deducted at the marginal rate and then tax the contributions at 15%?

A simpler outcome would be to make TFN quotation compulsory.

Recommendation: Make TFN quotation compulsory to superannuation funds.

7.2.2 Undeducted contributions

It is proposed that superannuation funds would only be able to accept undeducted contributions if the member's TFN has been quoted to the Trustee.

Recommendation: Make TFN quotation compulsory to superannuation funds.

Other issues

- If it is proposed that amounts are to be indexed annually, it is requested that amounts be rounded to the nearest 100.
- When the amending regulations are released a consolidated version of the regulations would be appreciated.
- Many members are concerned that decisions they make today may be impacted by legislative change in the future. Therefore it is requested that after these Budget changes are legislated that the superannuation industry and more importantly the members have a period where no further significant changes are made and allow the superannuation system to move forward with some certainty.

If you have any questions in relation to the comments made above, please either contact Kaye Wheatley-Brown on 03 9667 9604 or Janet Burton on 03 9667 9753.

Yours sincerely

Bob Welsh
Chief Executive