

8 August 2006



General Manager
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The Treasury
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Dear Sir or Madam,

UniSuper Submission to Treasury on ~

“A Plan to Simplify and Streamline Superannuation”

UniSuper Management Pty Ltd is pleased to make this submission to the Commonwealth Treasury on 'A Plan to Simplify and Streamline Superannuation' released for comment on 9 May 2006 as part of the 2006 Federal Budget.

UniSuper is the industry superannuation fund for employees in Australia's higher education and research sector. The Fund in its present form came into being with the merger of the Tertiary Education Superannuation Scheme and the Superannuation Scheme of Australian Universities in September 2000.

UniSuper offers both defined benefit and accumulation plans to its members. The Defined Benefit Division, which remains open to all new permanent employees in the sector and is portable across all participating employers, requires a fixed 14% employer contribution and standard after tax 7% member contribution. On joining UniSuper, eligible members are automatically enrolled into the defined benefit division and have a period of twelve months to decide if they want to move to an accumulation plan in which they would receive the same level of contributions and insurance benefits.

Other UniSuper members, typically casual employees and those employed by 'related bodies' that are not universities, generally receive accumulation contributions at the Super Guarantee rate, with the capacity to supplement their savings through voluntary contributions, salary sacrifice and, where applicable, access to the Government's co contribution scheme.

At 31 December 2005 there were 373,110 members of UniSuper of whom 176,789 were active members, including 49,676 who were members of the Defined Benefit Division. There were 188,341 inactive members; i.e. individuals who had accounts with UniSuper but were not presently receiving employer contributions.

UniSuper is one of Australia's largest superannuation funds by assets, with approximately \$19.3 billion of funds under management at 30 June 2006.



1. GENERAL COMMENTS

Reform Package Deserves Support

UniSuper strongly supports the general thrust of the Government's superannuation simplification package, and believes that it will play an important role in helping Australians understand and take positive steps towards improving their retirement savings.

In particular, key measures including the abolition of Reasonable Benefit Limits and the overhaul of the taxation treatment of superannuation benefits, deliver significant and meaningful reform to a system crying out for simplification in these areas.

However, UniSuper does have concerns about some specific elements of the proposal that we believe could lead to many Australians still not preparing optimally for their retirement. The areas of concern are addressed in detail below and cover the following issues:

- The \$50,000 cap for concessional tax treatment on deductible contributions;
- The administrative implications for funds of the \$150,000 annual limit on the undeducted contributions with particular reference to lump sum payments from a foreign superannuation fund;
- The ongoing application of the Work Test to contributions made beyond age 65;
- The transition of Term Allocated Pensioners into the new simplified pension regime with appropriate restrictions applying to individual pensioners;
- The blanket restriction on all employer ETPs being rolled to superannuation;
- Timing and process for the crystallisation of the pre - 83 ETP component; and
- The proposal for notional contributions to be used as the basis for establishing contribution levels for members of defined benefit funds.

The following submission addresses the issues identified above and makes comment on related matters or implications for the administration of the proposals.

2. MAJOR ISSUES

2.1 Deductible Contributions

The abolition of the age based limits and Reasonable Benefits Limits have been replaced in the budget proposal by a control at the front end; a limit on deductible contributions of \$50,000 per annum. This, along with the annual limit of \$150,000 of undeducted contributions, seeks to limit exploitation of the concessional tax treatment of superannuation.

UniSuper Response

The application of deductible contribution limit in its currently-proposed form would have a significant impact on UniSuper members, in two key respects:

- First, there are some members who will be taxed at the top marginal rate merely for participating in UniSuper plans on the existing standard basis (i.e. through making regular salary-sacrificed standard contributions to our Defined Benefit Division and Accumulation 2 Plan); and



Secondly, an even larger number of our members who are making “catch-up” contributions via salary sacrifice will suffer a similar tax penalty, even though many of these members would not have exceeded the Pension RBL under the existing rules.

As a consequence UniSuper would like to see the proposal amended. The specific recommendations will be addressed at the end of this section of the paper.

UniSuper offers five arguments in support of an amendment to what is proposed. These are:

- It is unfair to apply a cap where members exceed this limit based on fund design preceding the imposition of this limit;
- UniSuper members’ capacity to save for their retirement would be adversely affected by the \$50,000 cap on deductible contributions;
- The proposal discriminates against women as it reduces the capacity to catch up for time out of the workforce;
- The proposal discriminates against some members based on their current age (particularly considering the proposed ‘sunset’ date of 2011/12 for the higher \$100,000 p.a. limit for those over 50 years of age at 1 July 2007); and
- The existing age based limits appropriately recognise the capacity to contribute and the motivation to contribute.

The proposal is not fair to members in some circumstances

The governing rules of the UniSuper fund have been in existence since 1983 when the SSAU commenced. The fund commenced as a defined benefit fund and the fixed contribution requirements for both employers and members were based on actuarial calculations to maintain the capacity to pay the benefits outlined in the Trust Deed. When an accumulation plan was established in 1998 the same contribution levels and insurance benefits were maintained so the member choice was based solely on the preferred style of benefit, not on selection of a different rate of contributions..

The funding assumptions for the defined benefit plan are regularly reviewed and the current levels of contributions have recently been confirmed as adequate for the stability of the defined benefit plan. The levels of contribution are well justified from a prudent actuarial perspective.

The proposed change will result in super payments being taxed at the top marginal rate for some of our members (see below) who are simply meeting the contribution levels required to ensure the fund is prudently managed. It is readily conceded that these numbers are not large as a proportion of our total active membership but the effect could potentially undermine the basis of the defined benefit fund if these numbers were to grow (particularly if the per annum limits are not indexed in some way by the Government over time).

It seems unfair that the member will be taxed at the top marginal rate on an element of their fund designed standard contributions.



Impact on UniSuper members

At 30 June 2006 there were 130 UniSuper members who exceed the \$50,000 cap by simply receiving the relevant employer contributions (17%) and making their standard member contributions (7% after tax or 8.25% pre-tax). Of these members 110 (85%) are men and 20 (15%) are women. Even though the majority of those potentially affected are over 50 years of age and would have access to the \$100,000 transitional arrangement till 2011/12 there are 35 members below age 50 and one as young as 35. A complete table appears immediately below.

Count of Member Gender				Count of Member Gender			
Age	F	M	Grand Total	Age	F	M	Grand Total
35		1	1	53	3	6	9
38	1	1	2	54		4	4
39		2	2	55		3	3
40	1	3	4	56	1	10	11
41		1	1	57	1	6	7
42	1	2	3	58		5	5
43		4	4	59	4	5	9
45		4	4	60		8	8
46		3	3	61	1	4	5
47		3	3	62		6	6
48		5	5	63		3	3
49		3	3	64	1	6	7
50	2	3	5	65	1	5	6
51	1	2	3	Grand Total	20	110	130
52	2	2	4				

The above data only includes those UniSuper members who would be caught by the \$50,000 limit by virtue of their participation in our Fund on the standard (i.e. pre-set employer and member contribution) basis. However, when we look at *all* members who are exceeding the proposed limit we find that at the same date there were 756 members in total making contributions in excess of \$50,000. This figure includes the 130 listed above.

The difference between the two sets of numbers is a reflection of the significant number of members who are electing to utilise salary sacrifice arrangements to make 'catch-up' contributions later in their working lives in order to achieve adequate retirement savings outcomes.

The average and median age of this larger group is 57 years and women account for 27% of those contributing. This is nearly double the percentage of women whose standard contributions have them exceeding the limit. The level of additional contributions by women is obviously driven not by capacity alone but by other factors, which we will explore in greater detail below.

UniSuper sees a discrepancy between the old RBL limits and the new restrictions placed on the deductible contributions. While it can be argued that the flat dollar limit allows the same capacity, or even a more generous allowance, to invest in superannuation over the expected total lifetime of an employee, the reality is that very few fund members have the capacity to pay up to the limit in the early years of their working lives.



The table below shows the average and median salaries for UniSuper members in the age brackets of the Aged Based Limits.

All active members – (208,257)

Age Group	Mean Salary	Median Salary
Less 35	\$53,740	\$51,940
36 - 49	\$66,565	\$62,425
Above 50	\$75,247	\$70,445

The table above clearly shows that even in an industry such as Higher Education with relatively high salaries an average member under the age of 35 would need to contribute virtually their whole salary to fully utilise the new flat dollar concessional tax limit. The situation improves slightly for a member over 35 but younger than 50. However this is the age group where higher living expenses are incurred. In both of these age brackets it is totally unrealistic even for the relatively well paid to fully exploit the \$50,000 concessional tax limit.

As well as salaries increasing as members get older generally members have higher expenses in their early to mid working lives. It is only toward the latter period of their employment that they can increase their contributions.

The Logic of the Age Based Limits

While it could be argued in other industries that the increase over time is subject to the influence of the Age Based Limits in existence today, the University sector can be scrutinised without this influence because of the tax exempt status of these institutions. In the data above the contribution design is obviously linked to the growth in wages over a normal working life. However the data clearly shows that the pattern of voluntary contributions to superannuation commences or increases as a member gets older. This indicates that the age-based limits did reasonably reflect the capacity of members to make contributions at different times in their working lives.

The Age Based Limits also addressed the psychology of ageing and the point of engagement for most members with the notion of saving for retirement. UniSuper acknowledges that it is important to try and engage members in the debate about retirement savings adequacy at an earlier age and commits significant resources to this end. However, even with better education it is still highly likely that additional saving for retirement will be addressed after more immediate financial priorities are dealt with.

The Effect on Women through Breaks in Paid Work

ANU economist Bob Gregory has extensively researched employment and wage patterns for women in the workforce. He has explored a number of themes about women's' employment patterns and welfare payments based on changes in education levels, changes in attitudes to married women working and concentrated on issues stemming from this. His work shows a number of changed demographic trends.



Surprisingly to the author, and many who have seen his results, the overall level of participation of women in the full-time workforce has not changed between 1976 and 2002. About 35% of participants are women. However, the age of women participating in full time work has changed and the period and age when breaks are taken has also changed. [R.G.Gregory, "Can this be the Promised Land?" *Work and Welfare for the Modern Woman*, National Institutes Public Lecture Parliament House Canberra 5 June 2002.] This document is reproduced in full as a separate Appendix to this submission and referred to below.

The paper shows that the age bands 25 – 34 and 45 – 54 are the age groups that have the highest proportion of women working full time when compared to the same age bands in 1976. The same data shows that participation in full time work reduces in the band 35 – 44 consistent with women generally having children later than in 1976. The graph at page 27 of the paper shows the trend since 1976.

Gregory further notes that the same amount of fulltime work is being worked by women but spread differently across the working life. He finds that there is a reallocation of work to the older age groups and that this is an expected outcome. The raw ABS data at June 2005 supported this position showing that:

3 in 4 women aged 45 to 54 are now in the workforce;
56% of women aged 55 to 59 are in the workforce; and
one in three women aged 60 to 64 are working.

All of these figures show a dramatic increase in participation when compared to twenty years earlier.

The evidence produced by Gregory further shows that older women in the workforce have dramatically increased their Real Weekly Earnings particularly since 1990. This shows the greater capacity for women to increase their superannuation contributions later in their working lives and catch up after many are out of the workforce for a period in that 35 – 44 age band. This is illustrated in the graph at page 29 of Appendix 1.

UniSuper's Experience

The UniSuper experience reflects that not only do some women have the capacity to catch up but they are also actively seeking to improve their superannuation savings.

For example, when UniSuper surveyed members on the theme of adequacy of retirement savings in mid-2005, 62% of the 2,605 respondents were women. Of those women who responded 44% were not confident that they would reach their retirement savings goal. This finding was consistent with a BT Female Investor Poll in 2005. A HESTA survey of 800 men and women undertaken in November 2004 also found that 33% of female respondents were concerned about financial dependency on a partner in retirement.



The table below shows the detail for women over age 50 who had contributed in excess of \$50,000 in the 2005/06 financial year.

Total	Mean Age	Median Age	Mean Salary	Median Salary	Mean Contributions	Median Contributions
319	57	57	\$120,551	\$105,053	\$67,190	\$60,558

The mean and median average age shows that women over aged 50 are contributing in excess of the \$50,000 right up to retirement age in an attempt to increase their superannuation balance. It should not be assumed that the salary figures, which were relatively high compared to community averages, necessarily lead to high superannuation account balances. Many accounts are surprisingly low, reflecting the likelihood of broken working histories among many of the female members concerned.

Even with the higher mean salary the mean standard contribution in UniSuper's Defined Benefit Plan would be \$30,268 where the member component was being salary sacrificed (and therefore a deductible contribution). The mean contribution for these women was in fact \$67,190, which shows that they were making voluntary contributions in excess of their standard rate which is already high by community standards. In other words, there is some serious catch up going on.

We believe that imposing the top marginal tax rate on contributions in excess of \$50,000 will severely negatively impact the level of contributions these members need to achieve.

Transitional Arrangements Fall Short

The government's proposal to limit deductible contributions to \$50,000 also creates significantly inequitable outcomes for members in particular age groups. There appears to be some recognition through the proposed transitional arrangements that older contributors will be adversely affected by reducing the old Age Based Limit. However, this recognition only applies to those aged over 50 at 1 July 2007 and is subject to a 5 year sunset provision. The age cohort that will be most disadvantaged by this measure is those who are currently in the 35-45 year old age group, who will have *neither* the opportunity to participate in the increased deductible contribution limit post age 50, *nor* the ability to utilise the flat \$50,000 annual limit over their full working lives, having been subject to lower age-based limits at younger ages under the existing rules.

The following Table illustrates the maximum deductible contribution opportunity for three individuals under the proposed measures and transitional arrangements, at ages 21, 45 and 55 at 1 July 2007, in all cases with a target retirement age of 60 years. For the 45 year-old and the 55 year-old, the actual limitations imposed by the old age-based limits are reflected to the extent that they will have applied to these individuals prior to 1 July 2007.



Table 1: Maximum Deductible Contribution Limits by Age

21 Year-Old	45 Year-Old	55 Year-Old
Contributions 21 – 35 \$700,000 Contributions 35 – 45 \$500,000	Contributions 21 – 35 \$213,640 Contributions 35 – 45 \$ 423,850	Contributions 21 – 35 \$213,640 Contributions 35 – 45 \$423,850
Contributions 46 - 60 \$750,000	Contributions 46 - 60 \$750,000	Contributions 46 – 60 \$1,237,440
Total Contributions \$1,950,000	Total Contribution Potential \$1,387,490	Total Contribution Potential \$1,874,930

As can be seen, the proposed arrangements do not allow the 45 year old to make anywhere near the same maximum contributions at concessional rates that either someone older will be able to have done, or someone younger can do over a full working life. This does not even take into account the likely *capacity* of the member to contribute more at later stages of their working life, as discussed in the earlier section with regard to women specifically.

This example presents the problem most graphically but the effect will be more or less significant based upon the member's age and the duration of the access to the higher limits through the old and/or new systems. UniSuper believes that this anomaly can be addressed more equitably by simply abandoning the proposed sunset provision on the higher \$100,000 deductible contribution limit for members once they reach age 50 – i.e. to make this a *permanent* feature of the new simplified system, not a temporary one.

In summary, UniSuper believes that the data shows that many groups of prospective retirees – most particularly women and working Australians in the 35-45 year age bracket - will be adversely affected if they cannot contribute a greater amount to super in the latter part of their working lives. Given the incapacity for most to contribute up to the limit earlier in their working lives, this measure could result in an effective reduction for UniSuper members in the concessional tax treatment previously allowed under the RBL limits.

Recognising the need for maximum simplicity and clarity in the new rules, UniSuper is not, however, recommending a reversion to the old Age Based Limits. Rather, it makes the following recommendations to address the anomalies discussed above regarding the \$50,000 p.a. deductible contribution limit.

Recommendations

UniSuper recommends that:

*the transitional arrangements proposed for members over 50 years of age allowing \$100,000 of deductible contributions until the end of the 2011/12 financial be adopted as a **permanent** feature of the revised system; and that this increased deductible limit apply to all members over 50 years of age, and up to age 65.*

UniSuper further recommends that the legislation allows for an exemption from the application of the top marginal tax rate to deductible contributions in excess of \$50,000 p.a. in cases where:

The contribution in question was an outcome of the standard contribution structure of the members fund; and the fund's standard contribution structure was prescribed in its Trust Deed prior to 9 May 2006.

2.2 Undeducted Contributions

The proposed arrangements with limiting Undeducted Contributions to \$150,000 per financial year or \$450,000 over three financial years presents three problems for UniSuper members. These are:

1. There needs to be a transitional arrangement to allow members who were in the process of transferring external funds to super at the time of the announcement. The member would need to be able prove their intent through evidence of action taken so far such as the sale of a property, advice received from a financial planner etc;
2. The application of the Work Test Rules for members over age 65, and their interaction with the \$450,000 three-year limit; and
3. The application of the \$150,000 limit on undeducted contributions where a member transfers money to an Australian fund from an international fund.

Transitional Arrangements Needed

The immediate application of the rule applying a limit to Undeducted Contributions of \$150,000 per annum (or \$450,000 in a year where the limit for the next two financial years is brought forward), in our view unfairly impacts members who were in the process of completing *bona fide* retirement-related transactions at the time of the Budget announcement. The immediate application of the new limit does not take account of legitimate actions being taken under the previous rules (for example, liquidation and transfer of non-super assets into the superannuation system) that by their nature take a period of time to implement.



In the case of a property sale -a common means of funding retirement - it would be universally understood that there is a significant lapse in time between the decision to sell the property and investing the funds flowing from that sale in a superannuation fund. It seems harsh and unreasonable if there is not a capacity under transitional provisions for people who had commenced a process that was to result in an investment in superannuation, to finalise that process even if it was not fully resolved until after 9 May 2006.

UniSuper does, however, support the need for the member claiming to be affected by this timing disadvantage to be able to demonstrate this intent through evidence.

Recommendation

UniSuper recommends that the legislation allow for Superannuation Funds to accept undeducted contributions from members in excess of \$150,000 where:

The member can provide evidence that the money is available as a result of a genuine retirement savings process or plan that was commenced prior to 9 May 2006; and

The member can demonstrate to reasonable satisfaction of the Fund and/or the ATO that the money was to be invested in superannuation.

2.3 Application of revised work test rules

Recent statements have clarified the government's position with regard to the application of the Work Test Rules, to allow members over the age of 65 to continue to make contributions to superannuation.

In particular, the Government has stated that the work test will extend to those wishing to utilise the facility to 'spread' the \$150,000 annual undeducted contribution limit over three years in advance (i.e. to make a single contribution of up to \$450,000 to use up 3 years worth of the new limit in one transaction). The government has made clear that the member must meet the work test rule for the years for which the contribution applies if the contribution is to stand.

UniSuper believes, however, that there is little value to the government in pursuing the work test application for members over age 65 wishing to contribute to superannuation. The reasons for this are outlined as follows:

Keeping it Simple

First and foremost, UniSuper believes the simplicity test is not met by this measure.

Beyond 1 July 2007 fund members will be able to leave their funds in super indefinitely. This will move superannuation into the mainstream of consumer financial services; however there will be an artificial barrier to members making contributions if they are older than 65 years.



There will be a particularly detrimental impact in situations where retirees are transferring money to Australia from overseas funds, where they will now find themselves subject to the work test if over 65 and wishing to transfer more than \$150,000 in a year. Where an Australian citizen is returning from overseas to retire, they should be able to repatriate funds that were accumulated through a genuine pension savings scheme in the other country, without suffering a tax penalty in Australia. This issue is explored further in Section 2.4 below.

Similarly, where a member over 65 years of age has assets outside the superannuation system that they wish to convert to superannuation to fund income in retirement these will again be limited to the \$150,000 of undeducted contributions as the spreading of funds over three years will be subject to meeting the work test.

In the case of UniSuper's members, the vast majority of academic staff in universities work till they are sixty five. There is evidence that many have assets outside superannuation that they have earmarked for use in retirement. For example during 2005/06 UniSuper received Lump-Sum contributions in excess of \$150,000 from 193 members with the contributions ranging from \$152,000 to \$1,519,109. The average size of contribution was \$304,695.

Workforce Participation.

One of the claimed social policy aims of retention of the work-test is to link the notion of eligibility to contribute to superannuation to ongoing workforce participation at an age where individuals are seeking to cease their participation in the workforce.

However, an analysis of what is required to meet the work test shows the criteria used to allow contributions to be made requires minimal workforce participation. The work test requires a person to work 40 hours in a period of not more than 30 consecutive days. This participation represents slightly more than one standard work-week per year. If the purpose of the work test is to link contributions to workforce participation then this application hardly achieves that outcome. What it does do is incentivise members seeking to make contributions to ensure the letter of the law is met.

Over recent time changes to superannuation have cut the absolute nexus between work and the right to contribute to superannuation for those people under 65 years of age. For example, measures such as Spouse Contributions and Contribution Splitting have acknowledged that there is a need to get money into superannuation for those people who may not be employed in the workforce or have periods of time out of paid employment. It is UniSuper's view that this is equally valid for people over 65 years of age.

Given that there is no longer a mandatory retirement age, and no longer a direct nexus between employment and the ability to contribute to superannuation, it is inconsistent to apply a work test to members over 65 years of age. If there was no impact on members and their funds this may not be an issue.



Administrative Impacts

The above concerns may not be so much of an issue in practice, except for the avoidable cost impact that they will place on funds in seeking to administer the proposed rules.

In UniSuper's case, there are 6,751 members currently who are over 65 and younger than 75 years of age. The administrative burden attached to managing the work test rules for these members is significant – for example, the need to establish systems and procedures for situations where a member has made an undeducted contribution immediately prior to or at age 65, utilising some or all of their cap for the ensuing two years. As mentioned above and explored further below, this scenario is particularly relevant to international transfers, of which funds like UniSuper are required to process in some volume and with significant sums of money involved.

Recommendation

UniSuper recommends that the work test for making contributions to superannuation beyond age 65 be abolished.

If the government is not prepared to abolish it completely then UniSuper recommends that it should only become operative at 70 years of age. This would be a consistent age with Superannuation Guarantee payments and though not eliminating the associated administrative burden for funds it would help alleviate some of this work.

2.4 International Transfers

Where a member can successfully transfer all their retirement savings from an overseas fund within a six -month window of opportunity and the money has been taxed in the country of origin, or they do not elect to have the growth taxed by the fund, the full amount transferred across will be treated as an undeducted contribution in the Australian fund.

As noted earlier, UniSuper is particularly concerned about the application of the \$150,000 cap on undeducted contributions in this situation.

UniSuper has previously advocated that government regulation in this area should assist expatriate Australians to return their money, and migrants to transfer their overseas superannuation savings, to the Australian superannuation system in an efficient, timely and cost effective manner. [UniSuper Submission to The Senate Select Committee on Superannuation Re Taxation of Overseas Transfers. April 2002]



When a migrant brings superannuation savings to Australia within the six - month time frame then they may be able to spread the contributions over three years so they can contribute a lump-sum up to \$450,000. However this will not address all cases or for UniSuper even most. UniSuper has approximately 100 international transfers a year. In 2005/06 financial year there were 97 transactions from international funds. Given the increased international mobility of academics and managers within the tertiary education sector this number is likely to increase. The vast majority of these transfers are from funds in the United Kingdom and nearly half of the total transfers (52) were from the Universities Superannuation Scheme within that jurisdiction. Twelve of the 97 transactions were for amounts in excess of \$150,000.

One particular concern is when a citizen is returning to retire in Australia and is over age 65, he or she may not have the opportunity to spread the payments over the three years because they will not be working on return to Australia. Even if the person was able to access the higher figure this may not accommodate the total superannuation savings amount.

These amounts are subject to fluctuating currency rates and in many instances the person affected may have been working overseas for a considerable period and /or transferred their accumulated Australian superannuation to the international fund in the first instance. Under the current proposal UniSuper would only be able to accept funds up to the relevant undeducted limit though the funds are quite clearly meant to provide for the member's retirement.

A current example is a former member of SSAU (one of the merging funds that created UniSuper) who has worked in a UK university of recent years and wishes to transfer his money back to UniSuper when he takes up a new post at an Australian university. In a recent email he states;

"As my USS fund in the UK is a defined benefit scheme, the UK Revenue put a valuation on this of 20 times pension – in my case £809k or approximately Aus\$1.9m. Thus less than one quarter seems transferable. As an Australian who worked many years in Australia and contributed to SSAU, then worked in the UK and is returning to work in an Australian University this seems inequitable."

The UK funds generally *require* a member to withdraw the total amount if they are seeking to repatriate superannuation money. For many UniSuper members this will mean only a proportion of their superannuation money will be able to be transferred to superannuation in Australia or they will be forced to leave all their superannuation overseas.

Looking forward, there will be increasing mobility in many sectors of the economy. There are already a number of major industries -finance, resources, telecommunications and computing to name but a few where this issue is going to become even bigger issue over time. Accordingly, UniSuper submits that now would be an appropriate opportunity to address what would be a major contradiction in the system where money saved within the superannuation framework in an overseas fund was rejected from super on transfer to Australia.



UniSuper acknowledges the concern that relaxation of the rules in this area might open up opportunities for unscrupulous operators to exploit the rules by creating contrived retirement savings structures in offshore locations. However, we also contend that it should be possible to construct a suitable legal framework to facilitate genuine, bona fide cases of retirement savings transfers without necessarily creating 'loopholes' of this nature. We suggest that the key to this outcome would be the development of safeguards that would ensure that the fund from which the transfer is made is legitimate and/or meets some form of guidelines or registration procedures with Australian tax authorities.

Recommendation

That bona fide transfers of pension fund assets from registered international funds be exempt from the \$150,000 undeducted contribution limits.

UniSuper further proposes that a register of eligible international funds be kept by the ATO. Transfers could only be accepted from funds on this register. Eligibility criteria for funds to be placed on the register will be determined by APRA, ASIC and the ATO.

3. TOPICS OF INTEREST RAISED IN THE PLAN

3.1 Merging Term Allocated Pensions (TAPs) into the Simple Pension Framework

In section 3.2 of the booklet "A Plan to Simplify and Streamline Superannuation" the framework for a simplified pension operation is outlined. The proposal requires a minimum annual drawdown, a percentage of the account balance based upon age bands, no maximum annual draw down limit, no residual capital value and transfer to a dependent on death or lump-sum payment to the pensioner's estate. The proposal still allows for guaranteed lifetime pensions.

UniSuper response

The major issue for UniSuper arising out of this proposal, coupled with the abolition of 50% assets test exemption for complying pensions, is the future of TAPs in the new environment. UniSuper sees the TAP as a special case among term and lifetime products because:

- It only came into being on 20 September, 2004;
- It, like the new simple pension, is market-linked;
- There are generally small take up rates;
- As funds have relatively a small number of members in their TAP it would be an expensive legacy product; and
- The two major reasons people used TAPs, RBLs and Age Pension eligibility, will be redundant by 20 September 2007.



UniSuper currently has 93 members in the TAP product from a total membership of approximately 373,000. Without being conclusive, an analysis of these accounts shows that just under half those pensioners have gone into the TAP to gain access to the Pension RBL limit. It is reasonable to expect that if given the chance to convert to the new product these people would take that opportunity.

We anticipate that there will be increased use of the product between now and when the changes to the Age Pension Assets Test come in on 20 September 2007. Despite this UniSuper is of the view that the TAP can be rolled into the "Simple Pension" framework.

Recommendations

That the legislation allow Trustees offering the Term Allocated Pension to close the product and roll members into a new "Simple Pension".

Current TAP members should be allowed a choice of converting to a new simple pension without restriction, or (where relevant) to transfer to another income stream product that would preserve their existing Centrelink entitlements.

Retention of the member's existing TAP should not be an option owing to the expensive legacy product issues this would create for TAP providers.

3.2 Proposed Taxation Arrangements – Application to Defined Benefit Funds

In the booklet 'A plan to Simplify and Streamline Superannuation' it states the following when talking about defined benefit schemes and how they generally operate,

" In funded defined benefit schemes, contributions are generally not allocated to the account of a specific employee. Rather, employees are entitled to a specified amount upon retirement, usually related to the salary of the employee and the number of years of service."

It goes on to say that determining breaches of the \$50,000 cap for contributions to a defined benefit fund will be through the creation of notional contributions and these would be added to any other actual contributions made to an accumulation plan to determine the level of contributions in a year.

UniSuper response

Unlike the majority of defined benefit funds, employers in UniSuper pay a fixed rate of contributions to the scheme on a fortnightly basis. These contributions are identified as contributions to the member's account even though they do not relate to the method of determining the benefit when the member leaves. They are reported on the member's benefit statement and the member can review a transaction history of their account on the website. Where the payment relates to a



defined benefit payment then this is identified and the method of determining the final benefit is explained on the benefit statement.

The UniSuper defined benefit scheme also has two divisions with different rates of accrual of benefit between those divisions. There are additional complexities for specific sub-groups of members where UniSuper has become a successor fund. In some instances there has been 'grandfathering' of specific conditions applying in the old fund which would continue to apply to this specific group of members in UniSuper. There are other groups that have non-standard benefits or contributions due to historical changes that varied conditions applying at a particular point in time or in response to a particular decision or ruling.

The specific nature of UniSuper's benefit design has been recognised previously by the Government Actuary when the issue of notional contributions rates was raised with regard to the application of the superannuation surcharge. On that occasion, UniSuper was granted a special ruling asking that the *actual* contributions be used as the basis for measurement of surcharge in UniSuper's Defined Benefit Plan (then SSAU). A copy of the correspondence, including agreement from the Government Actuary to the UniSuper proposal, appears at Attachment 1.



FAXED

AUSTRALIAN GOVERNMENT ACTUARY

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243-251 Northbourne Avenue

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Mr Ron Champion
Chief Executive
UniSuper Limited
Level 28
367 Collins Street
MELBOURNE VIC 3000

Dear Mr Champion

SUPERANNUATION SCHEME FOR AUSTRALIAN UNIVERSITIES (SSAU)

I refer to your letter of 11 December to Mr Monaghan of the Australian Taxation Office concerning the determination of surchargeable contributions for the SSAU.

As mentioned on the telephone today, this Office has discussed this issue with the Australian Taxation Office and I confirm that the method of determining surchargeable contributions for the SSAU set out in your letter is acceptable; ie., it is appropriate to use a single NSCF of 14% of salary (7% for half contributors).

As discussed, the Australian Taxation Office has agreed to extend the lodgement period for the SSAU to 28 February 1998.

If you wish to discuss this matter further then please ring me on 02 6213 5374.

Yours sincerely

Rick Shaw
Office of the Australian Government Actuary

12 February 1998

cc: Mr M. Monaghan, Australian Taxation Office



INSURANCE AND SUPERANNUATION COMMISSION

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Superannuation Scheme For Australian Universities (SSAU)
Tertiary Education Superannuation Scheme (TESS)
Level 28, 367 Collins Street, Melbourne 3000
Telephone: (03) 9648 4101 Fax: (03) 9648 4199
Web site <http://www.unisuper.com.au>

Ron Champion
Chief Executive

28 January 1998

Mr Michael Monaghan
First Assistant Commissioner, Superannuation
Australian Taxation Office
P O Box 900
Civic Square
CANBERRA ACT 2608

By fax no (02) 6216 1796

Dear Mr Monaghan

Superannuation Scheme for Australian Universities (SSAU)

I refer to my letter of 11 December 1997 seeking on behalf of UniSuper Limited, as Trustee of the Superannuation Scheme for Australian Universities, a special ruling in relation to notional surchargeable contributions under the Superannuation Contributions Tax (Assessment and Collection) Act 1997.

I have since noted, from legal advice circulated by the Institute of Actuaries, that our request that the notional surchargeable contribution factor for "accruing members" of SSAU should be 14% (or 7% for half contributors), plus any further percentage of salary paid by the employer on behalf of the member under salary packaging arrangements, rather than percentages calculated in accordance with Taxation Ruling SCR 97/1, is in line with the intent that the NSCF should "equate the effective increase in the values of the benefits under the schemes in the financial year to the level of contributions to equivalent accumulated benefit schemes".

My purpose in writing is however to note that the extension granted in response to my letter expires on 31 January 1998 but we have not yet had a substantive answer to our request. Could I therefore repeat my formal request for an extension for lodgement until 3 weeks after we receive your response. You will appreciate that for over 45,000 members a substantial volume of data needs to be transmitted, and that we have already met with technical difficulties in submission of the corresponding data for TESS.

Yours faithfully

MMonaghan:rwc:rma

UniSuper Limited (A.C.N. 006 027 121) is the Trustee of Superannuation Scheme For Australian Universities
UniSuper Management Pty Limited (A.C.N. 006 961 799) is the Administrator of Tertiary Education Superannuation Scheme



In addition there is a need for the legislation to allow the release of a pre 83 date from Government funds where the preserved funds cannot be withdrawn to allow consolidation. The pre 83 date can be used to establish the Eligible Service Period for the consolidated funds. This should be done by application from the member using a standard pro forma available through the Australian Taxation Office or its website. This has particular relevance to UniSuper members who have in many instances come out of state based defined benefit schemes.

Recommendation

That a pre-83 date preserved in a non accessible fund be available to a member on request, and can be used by a fund in establishing the correct pre-83 date before crystallising the pre 83 component.

CONCLUSION

UniSuper would welcome the opportunity to expand on the matters raised in our submission with Treasury officers, or to provide any further information you may require to support or substantiate the matters we have raised. If you have any questions or comments regarding our submission, please do not hesitate to contact me on (03) 9691 4102.

Yours sincerely



Ann Byrne
Chief Executive Officer

Recommendations

That the legislation allows defined benefit fund members to have their deductible contribution limit based on actual (as opposed to 'notional') contributions where these are made on a regular basis and reflect the actuarially determined value for the employer contribution and any additional contributions made.

Alternatively, the legislation could empower Treasury to allow exemptions from the notional contributions on application from a fund and set out the criteria that would apply in determining the exemption. These criteria would include regular payment of the actuarially calculated value for employer contributions.

4. OTHER ISSUES

Indexation of Limits

The plan is silent on the issue of indexation of relevant limits proposed. There has been discussion at various industry forums on how best to adjust the limits and how frequently this should happen. The two dominant schools of thought are:

Annual adjustments using Average Weekly Ordinary Time Earnings (AWOTE) with the potential for 'ugly' figures; or

Three to five yearly adjustments using rounded outcomes and a number of inputs to determine the rounded figure.

Recommendation

That the limits and thresholds be adjusted annually and remain linked to AWOTE, but that rounding to the next \$100 should be introduced to make the figures more user-friendly.

Crystallisation of the Pre 83 Component

UniSuper supports the effort to simplify the ETP components. It agrees with the specific proposal for the consolidation of the Pre 83 component and accepts that its future application will only be to those members who retire before age 60. UniSuper believes that it is important to set the date of effect far enough in advance so that members are given a reasonable time to be informed of the change and have the opportunity to consolidate their funds.

