Commonwealth Bank

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Mr J Lonsdale
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Dear Mr Lonsdale,

Submission on 'A Plan to Simplify and Streamline Superannuation' Detailed Outline

The Commonwealth Bank of Australia ("CBA") congratulates the Government on its 9 May 2006 initiatives to bring simplification into the superannuation environment.

Both directly and through its subsidiary entities, CBA is a major participant in the superannuation market. It promotes and manages a range of personal and corporate superannuation funds under its own brands, conducts a Retirement Savings Account facility, two Approved Deposit Funds, an Eligible Rollover Fund, as well as deferred and immediate annuity products. CBA also conducts a staff superannuation fund comprising some 16 membership divisions offering a combination of defined and accumulated benefits, and having assets of approximately $6 billion.

In addition, the group provides investment and administrative products and services to trustees of complying superannuation entities, plus a range of insurance options offered within the superannuation environment. Finally, the group is actively involved in providing the public with advisory services on retirement and other wealth creation matters via a network of professionally trained consultants (both in-house and third party).

Against this background, CBA believes that it is attuned to the superannuation and retirement marketplace, making it well credentialed to provide responsible commentary on the proposals for superannuation simplification.

The initiatives announced in "A Plan to Simplify and Streamline Superannuation" have their focus on providing the superannuation member with incentives to save for retirement and enhancing understanding as to how their final benefits will be taxed. Importantly, it proposes to strip through the layers of grandfathered complexity which have burdened the system over time as it has passed through previous iterations.

There are three elements which together comprise the superannuation and retirement savings system, namely:

1. Individual members;
2. Superannuation providers; and
3. The Revenue.

An effective reform package should see each of these elements addressed with the view to creating maximum efficiencies. In particular, it should be recognised that administrative complexity ultimately results in passing additional costs to superannuation members, reducing their retirement balances and in turn increasing the burden on the Revenue to supplement retirement incomes via social security pensions.

In addition, it is suggested that the reformed system should aspire to achieving a level playing field for each element. That is to say, the system should not give uneven outcomes for different products types nor as a consequence of member employment characteristics.

CBA has worked closely with the Investment and Financial Services Association Limited (IFSA) and supports the submissions made by IFSA in response to the 9 May 2006 proposals. The matters discussed in this submission generally fall outside those dealt with by IFSA.

1. Contributions

1.1 Spouse Contribution Splitting

We seek clarification in relation to the interaction of the spouse contribution splitting legislation and the proposed concessional deductible contributions limit of $50,000 and the undeducted contribution cap of $150,000. Currently there is some uncertainty as to how the two interact and this will cause difficulties for investors.

By way of example, assume the following:

- A member under age 50 receives employer contributions of $110,000 in the 2007/2008 financial year.
- The member elects for an $80,000 "taxed" contribution split to occur to their spouse in July 2008.
- $80,000 is rolled-over as a "contributions splitting ETP" to the member spouse superannuation fund in August 2008.

The following issues will require consideration:

- Will the $50,000 cap on taxable contributions apply to the member only? Accordingly, $110,000 contribution less $50,000 = $60,000 excess taxed at top marginal tax rate and levied on the member's fund?
- In this case what happens if the member does not have sufficient funds to pay the additional tax? This could have a significant financial impact on the member, if this additional tax liability is required to be paid personally by the member. Legislative amendments, including "condition of release" changes to the Superannuation Industry Supervision Act, could be considered that would enable the member and the member spouse to agree to have this amount paid from the member spouse's funds.

- Alternatively, will the contribution split amount be deducted from employer contributions for the member and included as employer contributions for the spouse, when determining whether both parties have exceeded their $50,000 cap? In this case, the member will be below the $50,000 cap ($110,000 contributions less $80,000 contribution split = $30,000 employer contributions), whereas the spouse will exceed the cap by $30,000 ($80,000 contribution split less $50,000 cap). This excess would be taxed at the top marginal rate and levied on the spouse's fund.
- In this case, amendments will be required to the Member Contributions Statement (MCS) reporting to enable the ATO to determine any excess.
- Broadly, similar issues to that described above will occur in relation to the $150,000 cap for post-tax contributions.

2. Taxation of Death Benefits

2.1 Definition of Dependant

There is a lack of consistency in the definition of "dependant" throughout the current laws that operate within the superannuation environment. This lack of consistency will result in individuals who suffer as a result of not fully understanding the differences and the consequences under the new arrangements. With the overriding goal of simplicity in mind it is submitted that there should be one common definition of "dependant" across all superannuation related legislation. The problem is easily seen by looking at the respective definitions. "Dependant" under the Income Tax Act includes (in relation to the deceased):

- Any spouse or former spouse (excluding same sex partners); or
- Any child under the age of 18 years old; or
- Any person that had an interdependency relationship with the deceased.

Whereas "dependant" under the Superannuation Industry (Supervision) (SIS) Act includes (in relation to the deceased):

- Any spouse but not former spouse (excluding same sex partners); or
- Any child (regardless of age); or
- Any person that had an interdependency relationship with the deceased.

It is submitted that the Government should take the opportunity to ultimately simplify and streamline superannuation by adopting the same definition of "dependant" for both the Income Tax and SIS Acts. With this in mind, it is also suggested that former spouses (including same sex partners) and adult children of the deceased should feature in any uniform definition of dependant. Arguably such persons were intended to be covered following the introduction of "interdependency relationships" on 1 July 2004.

A uniform definition would provide not only clarity to the individual as part of their estate planning but would reduce the need for expensive external advice.

2.2 Restrictions on form of death benefits

2.2.1 Payments to multiple dependants and trust estates

The plan as outlined contains some uncertainties. In order to ensure the goal of simplicity is met it is submitted that clarification is needed in respect of some of the issues here. Specifically:

a. Under a literal interpretation of the proposed arrangements, death benefits paid in the form of a lump sum would appear to be tax free only if paid to one dependant. It is not clear whether separate payments made to more than one dependant of a deceased person would also be tax free in hands of each dependant. It is submitted that the Government should confirm that payments to multiple beneficiaries will be taxed based upon the characteristics of each individual beneficiary.

b. Where lump sum death benefit payments made to the deceased person's estate are ultimately passed to the deceased person's beneficiaries it is unclear as to whether such beneficiaries can be classified as dependants. It is submitted that the Government should confirm that payments through an estate will also be taxed according to the characteristics (dependant or otherwise) of each recipient.

2.3 Death benefits paid to non-dependants

While discussing death benefits there is a further issue which needs to be brought to the attention of the legislators. That is in the matter of untaxed elements and is as much a problem under today's regime as in the proposed scheme. A post-June 1983 untaxed element will arise in a situation of death where the deceased is a member of a fund and, at some time during the membership in that fund, the trustee obtained a tax deduction referable to insured risks in relation to the member. This may be appropriate where the superannuation fund receives some insurance payment in respect of the member. However, if no such payment is ever received then it is not appropriate. The two key anomalies here are:

- That the death benefit finally payable may not include any amount of insurance funded benefit by virtue of the fact that those covers had been allowed to lapse or lapsed by virtue of age of the member; and

- If the member had rolled his benefit to another superannuation provider prior to death, there would be no untaxed element in that ETP because the new trustee has not gained deductions referable to insurances.

It must be assumed that these outcomes were not contemplated when the legislation was drafted but it would be remiss not to now take the opportunity to redress the position. The preferred solution is to treat all post-June 1983 components as taxed – and it is suggested that there would be little real cost to the Revenue in doing so but much administrative simplification.

3. Pensions and Annuities

3.1 Transition of Existing Pensions to New Regime

It is our understanding that the Government may be considering some simple means of allowing providers to transition existing income stream products into products that comply with the new minimum standards. To not do so would only disadvantage investors, fuel uncertainty in the community and create the need to seek external advice. In respect of allocated pensions and term allocated pensions relatively small changes are required in order to comply with the new standards. However, in respect of guaranteed complying income streams the situation is much more complicated and in particular we are concerned as to whether individuals would be aware of its full implications.

As you may be aware, providers often match long term guarantees and rate of return on income stream with long term assets (which in some cases may not be liquid in nature). Early commutation could potentially expose individuals to significant losses because this in turn triggers premature crystallisation of long term assets which attracts penalties (ie transaction costs, fees, and etc). Ultimately, these penalties are borne by the individual as evidenced by redemption values that are considerably lower than their purchase prices.

In the interest of protecting investors of guaranteed complying income streams, we believe that the current rules on commutation applying to complying income streams be retained or at least be grandfathered.

3.2 Additional Contributions to Pensions or Merging Pensions

The concept of transitioning to retirement sees funds released to members in pension form while still in employment. During that phase, it is likely that the individual will continue to receive a level of superannuation support. Also, certain accumulated benefits might be expected to have been withheld (in accumulation phase superannuation options) pending final retirement. On full retirement, or as employment is further reduced, members may be seeking to top up their pensions from these sources.

The opportunity should be taken to relax the rules relating to pensions. In particular, there should be the capacity to merge and add to pensions provided that in doing so there is no compromise of the new minimum pension standards. It would seem a simple matter that this could be achieved by adopting pro-rata rules to annual minimums.

This proposition recognises the increased flexibility being afforded by superannuation generally together with the encouragement of potential retirees to maintain a role in the workforce.

3.3 100% Residual Capital Value (RCV) Eligible Termination Payments (ETP) Annuities

Many investors entering into the period of their lives when they require income stream products are very uncertain as to what income they will need to live upon, where they will live, whether they will stay fully retired and what their investment profile is? Due to this uncertainty many opt in the initial years for an annuity with a residual capital value. However, the new arrangements, as they currently stand, would place investors in such products at a disadvantage. An RCV product and a pension complying with the new

minimum standards will produce identical economic outcomes but different tax results for the individual. It is submitted that this is an unintended consequence.

Currently, an investor can purchase a residual capital value (RCV) guaranteed annuity with superannuation monies. The RCV represents the amount payable as a lump sum at the end of the prescribed annuity term and can range from 0% to100% of the initial purchase price. A lower RCV results in higher regular payments and vice versa.

Minimum payments are made even out of a 100% RCV, which are generated from the earnings on the superannuation monies invested off an interest rate of around 4-6% per annum (based on current levels). Arguably, this is analogous to an Allocated Pension with minimum drawdown requirements. The primary difference is that the investor would need to decide whether to rollover the amount or take an ETP after the nominated fixed term lapses.

For example, if a pensioner invests $100,000 in a 100% RCV 3 year fixed term annuity paying 6% per annum, the pensioner will receive $500 a month over the three year term. At the end of the term, the pensioner can decide to either rollover the original $100,000 into another fixed term annuity, transfer it to another income stream (eg allocated pension) or cash in the benefit.

These RCV style contracts are typically short term (1 to 5 year term) contracts and operate similar to a term deposit with most investors choosing a 100% RCV. Longer term (6 to 25 year term) annuities are typically purchased with a 0% RCV.

The short term RCV market generates about $1 billion of inflows per annum (higher when interest rates are high or stock markets are volatile and vice versa). They are a valuable financial planning instrument for several reasons including:

- Being attractive for conservative retirees who are nervous about locking in rates for a long period (eg concerns that inflation will go up or interest rates will rise);
- Attractive for retirees wanting a capital guarantee (consistent with their risk/return profile);
- Suitable for retirees who have short term access to other funds (eg proceeds from downsizing their house);
- Suitable for retirees who move to part time work;
- Suitable for retirees who are not disciplined with their spending when they have ready access to capital;
- Useful for estate planning as there are nominated beneficiaries (eg those who are diagnosed with a terminal illness); and
- Suitable for retirees who are not disciplined with the income subject to PAYG withholding.

Under the proposed arrangements, to satisfy the new minimum standards, a pension commencing on or after 1 July 2007 must provide:

- Payments of a minimum amount at least annually (ie with no maximum limit to preclude cashing out the entire amount);
- No provision to be made for an amount left over when the pension ceases; and

- The pension can only be transferred on the death of the pensioner to one of their dependants or cashed as a lump sum to pensioner's estate.

The proposed minimum payment amounts are:

Age	Percent of Account Balance
55 - 64	4%
65 - 74	5%
75 - 84	6%
85 - 94	10%
95+	14%

There would appear to be two key requirements in order for RCV annuities to satisfy the new minimum standards for pensions:

1. The payment of a minimum amount (at least annually); and
2. The requirement that no amount is left over when the annuity ceases.

Therefore it is conceivable that RCV annuities could meet the above requirements if:

- The contracts were ongoing and didn't expire;
- Pensioners could be offered fixed rates for various terms or an ongoing "cash" rate for funds "at call";
- Payments would be made in accordance with the above minimum payment amounts (if required, a lower than 100% RCV would only be offered for those investors at older ages);
- At the end of the term, the contract would automatically continue. The investor could choose another term and rate or alternatively continue on at the ongoing "cash" rate; and
- Pensioners can withdraw at any time (similar to the situation offered with allocated pensions).

Whilst an annuity provider could (in theory) structure an annuity in this manner, it would be extremely cumbersome with significant systems development and other costs required in maintaining the status quo.

It is submitted that the Government should clarify the rationale for a requirement that "no amount is to be left over when the pension ceases", given the intention of the plan was to introduce greater flexibility in how superannuation savings could be drawn down in retirement for retiring Australians. Arguably the proposed simple standard (as it currently stands) removes the flexibility afforded to individuals who do not want to lock into a long term contract, for the genuine fear of losing the ability to maximise their retirement savings. Furthermore, it removes the ability of annuity providers to offer such short term investment products for those in retirement. This is because it is highly unlikely that providers will issue short term RCV annuities that will not meet the new minimum standards, for the genuine fear of losing the tax exemption status for earnings on the assets supporting these products.

Accordingly, it is further submitted that short term RCV annuity contracts should be allowed to continue in their current form, provided all other requirements contained within the new minimum standards for pensions are satisfied (eg payments of the minimum amounts each year). This would most likely avoid the unnecessary demise of what now appears to be a taxed product, given the additional systems development and costs otherwise required to artificially modify the product to comply under the proposed arrangements cannot be substantiated.

4. Reasonable Benefit Limits (RBL)

4.1 Adjustment to Excessive Component of ETP

It has been suggested by many that the Government should bring forward the abolition of RBLs to 1 July 2006. In the event that the Government does not bring forward the removal we seek confirmation as to whether the tax rate applicable to the taxed element of an excessive component should be 36% (following the reduction in the top marginal tax rate from 47% to 45%), as opposed to the current rate of 38%.

4.2 Superannuation Guarantee (SG) Obligations

Under the SG legislation, where a member's accrued benefits reaches the pension RBL currently $1,356,291, an election under section 19(4) for the employer to discontinue SG contributions can be made. In conjunction with this, section 82AAT(1F) ITAA 1936 disallows personal contributions from being deductible where an election under the SG legislation is made and becomes operative.

The above mentioned legislation will become redundant following the abolition of the RBLs and hence we recommend that it be repealed.

4.3 Income Protection Insurance

Under the current section 279 ITAA 1936, a superannuation fund can claim a tax deduction for insurance premiums that meet particular criteria. Where a member takes out income protection insurance through a superannuation fund, the fund is only entitled to a deduction to the extent the cover does not exceed two years (refer to the definition of "death and disability benefit" provided in section 267(1) ITAA 1936). Given that a member would be fully entitled to a tax deduction for such cover when purchased personally, it is suggested that under the new regime superannuation funds should be entitled to a 100% deduction for such cover regardless of the cover period.

The above arrangements produce a simpler system and encourage members to take out insurance through superannuation funds which typically can obtain group coverage which is cheaper for members. The result would be an increased insured population which hopefully would result in a smaller social security cost being borne by the Federal Government.

5. Other Measures

5.1 Striking of Pre-July 1983 Component

Under section 2.3.1 (Calculating the Pre-July 1983 Component) of the Simplification document, it is proposed that as at a particular date, the pre-July 1983 component will be fixed and would then form part of the new exempt component. In order to reduce the workload around 30 June 2007, it is suggested that providers are given administrative flexibility in striking the pre-July 1983 component. One option to achieve this would be to allow providers to choose to crystallise the pre-83 component on or after an earlier date, such as 31 March 2007.

We acknowledge that some organisations may have difficulty altering their systems to strike the pre-July 1983 component prior to 1 July 2007 while continuing to facilitate the payment of ETPs (on cash out or rollover) between the striking date and 1 July 2007. This may require the development of a set of transitional rules to allow providers to manage these difficulties. We would welcome the opportunity to further discuss this issue.

5.2 Capital Gains Tax (CGT) Relief for Funds Transferring to New Regime

The proposed changes will require superannuation providers to amend their systems in order to reflect the new regime. Many providers have legacy systems reflecting corporate mergers and previous taxation and social security regimes. Making significant changes in this type of environment increases the risk of error and perpetuates the complexity, cost and lack of flexibility of the supporting superannuation platform, thus disadvantaging longer term members.. It is essential that there is some efficient mechanism to allow members to move to new superannuation products on current systems.

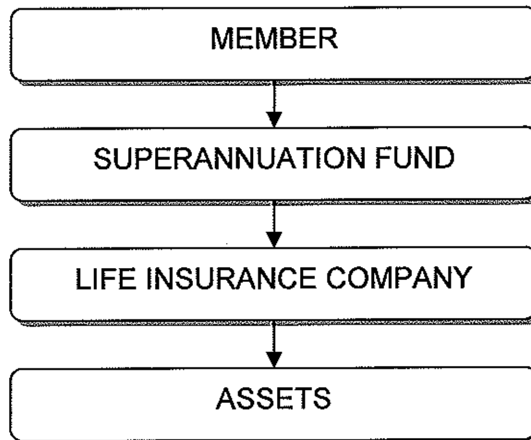
One of the key constraints preventing this from happening is that in moving members and assets from a legacy product a liability to tax on capital gains will be incurred.

It is suggested that some form of CGT rollover relief should be implemented with these changes. Such relief would allow members' assets to be transferred from a legacy fund to a successor fund whose supporting systems complied with the new regime. Such relief has been made available in the past, most recently in the context of the new superannuation safety rules that required providers to be licensed. The relief in that instance was contained in subdivision 126F Income Tax Assessment Act 1997 (ITAA 1997).

Specifically, similar CGT relief should be made available where members and assets are transferred to a successor fund by reason that the successor fund is able to comply with the new regime. Such relief should continue for at least 2 years after 1 July 2007.

To not provide relief would risks the creation of a whole new group of legacy products. This will only further confuse the general public in its understanding of superannuation and pensions. In addition, it would exacerbate structural inefficiencies in product administration, which ultimately impacts on member benefits.

Additionally, some providers of superannuation products have adopted structures whereby the superannuation funds are investing through a life insurance company. That structure is:



Rollover relief needs to also be provided so that assets can be transferred without a tax cost directly to the superannuation fund or indeed another successor superannuation fund. Such relief needs to be two fold. Firstly, CGT relief is required so that the life insurance company transferring the assets does not realise a capital gain. Secondly, the superannuation fund taking over responsibility for the member is deemed to have acquired the assets with the same cost base as the life insurance company and at the time the life insurance company acquired the assets.

5.3 Invalidity Payments

Total and Permanent Disablement (otherwise referred to as invalidity/TPD) is one of the current set of conditions of release for superannuation benefits. That this should be so is not in dispute. However, there are currently different tests for general superannuation law to those for taxation of the underlying benefit.

This is a very difficult concept for superannuation members to understand and it is invariably at the time of greatest need (ie suffering invalidity) that many self employed fund members have discovered the uneven treatment. In fact, the RBL provisions have further compounded this inequity because it is frequently the young who find themselves in receipt of large superannuation payouts (which will be necessary for maintenance of quality of future life) being assessed as excessive because of lump sum RBL age discounting.

In particular, it is of concern that members who became disabled between paid employment or who were not employed (being, in fact, self employed) are not afforded the same taxation treatments as those whose employment was brought to an end by virtue of their disability. From a policy perspective, there should be no distinction between employed and self employed individuals. This was recognised in a recent report of the House of Representatives Standing Committee on Economics, Finance and Public Administration. In that report, entitled "Improving the superannuation savings of people under 40", at paragraph 6.29 the Committee recommended:

> *The committee recommends the government align the tax treatment of invalidity payments of the incorporated and unincorporated self- employed.*

The opportunity to address this matter should be taken as part of the current reform. To achieve this Section 27G ITAA 1936 should be amended so as to remove the "employment" test.

It is further contended that recipients of TPD benefits should be afforded the same taxing rules as those proposed for retirees aged 60 or more – that is, all benefits should be exempted from tax. In arguing this point, it is recognised that invalidity is not a condition sought nor assumed voluntarily by the member. Also, sadly, it is too often associated with severely reduced life expectancy.

5.4 Compulsory Cashing

Section 3.1.2 (Compulsory Withdrawal Abolished) proposes the removal of compulsory cashing rules for superannuation funds and retirement savings accounts (RSA). These rules originate in the Superannuation Industry (Superannuation) legislation.

However, the announcements have not addressed the situations of members in two other superannuation savings vehicles, being:

- Approved deposit funds (ADF); and
- Deferred annuities (DA).

These vehicles have not been subject to the "work" test because in their historic development they were required to have internal cashing rules. In the case of ADFs, the trustee is required to pay out all member interests on or by age 65. This is a governing rule of such funds. Deferred annuities on the other hand are individual life policies the terms of which (by virtue of income tax law) require that they convert to immediate annuities on the day the policyholder turns 65 if they have not previously been commuted or commenced to paying an annuity.

Investors in these products now find themselves in positions which are clearly different from those in superannuation funds and RSAs. CBA believes that, in the interests of ensuring a level playing field both for superannuation providers and member/investors, the compulsory cashing rule for ADFs and the compulsory conversion rule for DAs should be withdrawn. It would then be for the respective trustees and issuing life companies to determine whether they wished to amend their governing rules/policies to extend the period of deferral within the superannuation environment.

If this proposal is accepted the matter should be announced as quickly as possible to match the announcements for the bringing forward of the removal of the compulsory cashing provisions for superannuation funds and RSAs.

5.5 Defined Benefit Schemes

Section 4.2 (Application to Funded Defined Benefit Schemes) of the proposal contains some high level observations about funded defined benefit schemes. What seems to be suggested is that each year the fund will need to report a notional taxable contributions figure for each member and tax will apply in respect of those members who exceed the designated limits.

Firstly, this implies that members of these schemes will be taxed on something that did not apply previously for defined benefit funds. This seems inconsistent in the context of

simplifying the application of the existing contribution limits (as opposed to widening its coverage). It also seems inconsistent with the fundamental nature of the defined benefit promise.

Secondly, how the notional taxable contributions are to be determined is not explained but it seems likely that some actuarial involvement will be required. This immediately detracts from the key objective of the plan which is simplicity. Additionally, there is a degree of inequity about this because of the fundamentals of the defined benefit promise. Depending on how the notional funding amount is to be determined, a member may be deemed to be over their contribution limit in one year (perhaps due to a recent promotion and accompanying pay rise) and well under in subsequent years. This would not seem equitable and does not recognise that the final defined benefit payable to a member is the end result of their total period of membership, not just what may or may not have occurred in any one year.

The solution that has previously been adopted, to assess the level of employer support in any one year, for the purpose of the Superannuation Surcharge, required a complex system of actuarial certification where even simple defined benefit funds required a complex set of tables. Additionally, these certifications needed to be updated on a regular basis imposing additional cost to the superannuation fund. Given the experience and complexity of administering the Superannuation Surcharge we submit that a much simpler approach needs to be adopted.

The most equitable and simplest approach would be to exclude employer contributions provided to pay for defined benefits from any calculations in respect of whether or not the $50,000 deductible limit per employee has been breached. If required, this could be limited to defined benefits which have not been enhanced since 9 May 2006. Undeducted contributions by the member would count for the purposes of the $150,000 cap.

If the Government decides to widen the coverage of the contribution limits to defined benefit plans, an approach that would provide simplicity and allow for a calculation of a notional employer contribution amount in respect of a defined benefit member would be to design a method of determining notional contributions for defined benefit funds which allows for the calculation of a single rate, based on a percentage of salary, to be applied for all members of each benefit category. This rate would be calculated having regard to the Fund actuary's view of the long term cost of providing the defined benefits to the members of that benefit category.

The single rate for each benefit category should be determined through an initial actuarial certificate to be obtained from the Fund actuary effective 1 July 2007. Once calculated, the rate would remain in use for members of the defined benefit category unless the underlying benefit formulae for the benefit category are changed. In those circumstances, a replacement rate would need to be calculated to be applied for future years.

The single rate approach would also enable the fund to notify its member's in advance the rate to be applied. This would enable defined benefit member's to determine with confidence the level of deductible contributions that they expect to receive in any one year.

It should also be noted that defined benefit funds are typically closed and in run off so there would be no additional compliance cost imposed on a declining product.

5.6 Exempt versus Non Assessable Non Exempt (NANE) Income

Under the proposed regime, payments from superannuation funds to members over 60 years of age will be "tax free". There are two fundamental types of tax free income for the purposes of income tax law. These are exempt income and "non assessable non exempt income" [refer to section 6 – 23 ITAA 1997]. If the first type is applicable complications arise for taxpayers with losses or those making charitable donations.

It is suggested that pension and lump sum payments to those over 60 years of age should be "non assessable non exempt income" rather than "exempt income". To not do so will result in pensioners having a much more complicated personal tax return which seems to offend the goal of simplicity.

5.7 Medicare Levy

Under the proposed regime, various tax rates are proposed for various types of payment and circumstances. The Government needs to clarify whether the Medicare levy does or does not apply to each type of payments. In particular, it is suggested that death benefit payments to non-dependants should not be subject to the Medicare levy as the person ultimately "causing" the payment is no longer in a position to use medical services.

5.8 Employer Eligible Termination Payments (ETPs)

Section 7.1.2 (Employer ETPs) sets out the proposed new taxation arrangements for employer ETPs following the removal of the RBL. Under the new regime, it is proposed that employer ETPs be comprised of two components – exempt and taxable. The tax exempt component would comprise of any post-June 1994 invalidity amount and the pre-July 1983 amount. The post-June 1983 amount would be taxed at 15 per cent for amounts up to $140,000 for recipients aged 55 and over and at 30 per cent for those aged under 55. Amounts in excess of $140,000 would be taxed at the top marginal rate. It is also proposed that as superannuation benefits paid to those over age 60 would be tax free, employer ETPs would no longer be able to be rolled over into superannuation.

We submit that arrangements already in place but payable after 1 July 2007 will be negatively affected by the above proposal. We therefore suggest that legally binding employer payment arrangements as at 9 May should only be taxed at 15% or 30% for pre 9 May service as it is our view that employer ETPs should be taxed the same as superannuation funds from untaxed sources.

5.9 Reporting Requirements

We acknowledge that under the new regime, additional/new reporting requirements will be required by the ATO.

From a systems perspective, CBA currently has over 12 product administration systems (PAS) and we need to ensure that they all remain compliant to the new reporting requirements. We therefore submit that a considerable lead time be provided on the commencement date of the new reporting requirements.

Further, we also seek clarity on the following:

1. As per the above mentioned, the commencement date of the new reporting requirements.

2. Whether there are transitional reporting requirements that the ATO expects from the providers.

3. Will there be changes proposed to the presentation of statements (ie annual or exits) prior to 1 July 2007?

* * *

CBA welcomes the opportunity to provide feedback on the Government's proposal to simplify and streamline superannuation. CBA trusts that this submission will assist the Government in understanding some of the commercial issues that would arise in implementing some of the Government's proposals. We also appreciate the opportunity to express alternative approaches to achieving the overall policy objectives in a framework of enhanced equity and efficiency.

If you wish to discuss CBA's submission further, please contact Jim Evans on 02 9303 7313.

Yours sincerely,

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Commonwealth Bank of Australia