

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

PricewaterhouseCoopers
ABN 52 780 433 757

Darling Park Tower 2
201 Sussex Street
GPO BOX 2650
SYDNEY NSW 1171
DX 77 Sydney
Australia
www.pwc.com/au
Telephone +61 2 8266 0000
Facsimile +61 2 8266 9999

8 August 2006

Dear Sir or Madam

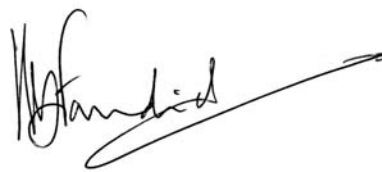
Submission on 'A Plan to Simplify and Streamline Superannuation'

Please find attached as an Appendix to this letter, PricewaterhouseCoopers' submission on the Government's 'Plan to Simplify and Streamline Superannuation'. Should you wish to discuss our submission further please contact David Coogan on (03) 8603 3841 or Mike Forsdick on (02) 8266 5767.

Yours sincerely



David Coogan
Partner



Mike Forsdick
Partner

PricewaterhouseCoopers is committed to providing our clients with the very best service. We would appreciate your feedback or suggestions for improvement. You can provide this feedback by talking to your engagement partner, calling us within Australia on 1800 792 111 or visiting our website <http://www.pwcfeedback.com.au/>

Submission on ‘A Plan to Simplify and Streamline Superannuation’

INTRODUCTION

PricewaterhouseCoopers has a significant client base in the superannuation and funds management industry. We provide compliance, external audit, internal audit, taxation, actuarial and a wide range of other consulting services to various corporate, public sector, industry and retail superannuation funds, as well as providing consulting services to individuals in relation to their superannuation arrangements. Our submission covers issues arising primarily from an individual member perspective.

We thoroughly endorse the proposal to simplify the taxation of superannuation. In particular, we endorse the proposal to remove the complex system of taxation of benefits and to increase the level of concessional contributions available to those under age 50. Further, the abolition of Reasonable Benefits Limits should encourage younger people to start saving earlier in the knowledge that they will not be penalised by using superannuation as their preferred vehicle for retirement capital.

The proposals have been favourably received by individual taxpayers and appear to meet the stated objectives of simplification, flexibility and improved incentives to work and save.

However, the most common feedback we receive from a wide variety of sources is that they are concerned by the constant change the superannuation industry has undergone and expect this to continue in the future. This concern continues to be a major barrier to people accepting superannuation as the preferred savings vehicle for retirement. The Government should therefore attempt to provide a level of comfort by guaranteeing minimal future change by all means possible, including legislative measures.

Our submission covers 5 main areas:

- Taxation of benefits & benefit payment rules
- Superannuation pensions
- Contributions
- Employer Eligible Termination Payments (“ETPs”)
- Other issues.

Our comments in relation to the various proposals contained in the Plan are provided on the following pages. Should you wish to discuss our submission further please contact David Coogan on (03) 8603 3841 or Mike Forsdick on (02) 8266 5767.

1. TAXATION OF BENEFIT PAYMENTS & BENEFIT PAYMENT RULES

1.1 The date at which the pre-July 1983 component will be fixed needs to be clarified. There are practical issues arising from this proposal that need to be addressed, such as what will be the status of rollovers from funds with elements of pre July 83 service period to a fund that is predominantly or completely made up of post June 1983 components - will the status still carry over?

2. SUPERANNUATION PENSIONS

2.1 Many individuals started Market Linked and other complying pensions in the last 18 months and are currently unable to commute them, unless they are within 6 months of commencement. We propose that the SIS rules should be amended to allow individuals to commute such pensions to enable them to be rolled into one of the new superannuation pensions outlined in the Plan. This would be consistent with the objectives of simplicity and flexibility.

2.2 Clarification is required in relation to the definition of dependant for the purposes of the reversion of a superannuation pension as we are aware that the SIS and tax definitions differ. For example, we would like to confirm that a superannuation fund will continue to be able to allow the reversion of a pension to an adult child.

3. CONTRIBUTIONS

3.1 Employer and Personal Deductible Contributions

3.1.1 The proposal to put a universal contribution limit of \$50,000pa per person is in our view, too restrictive. This limitation could be addressed by either extending the proposed transitional period for over 50s to enable them to make \$100,000 in contributions, or increasing the limit to \$100,000 when a person reaches the age of 50 years. Without an additional concession for people approaching retirement (when their savings capacity is often the greatest), we are concerned that there will continue to be retirees who are underfunded from voluntary superannuation sources.

3.1.2 As an alternative to transitional strategies or simply increasing the annual limits, another option may be to allow a catch up facility so that any unused limits from an earlier year can be used later. So, for example, if someone only contributes \$10,000 per annum (deductible) over two years, they would have the ability to catch up the remaining \$80,000 at a later time.

If this alternative was implemented, the ATO would need to track historical annual contributions, perhaps on a rolling 10 year basis once the person is, say, 40 years old. The unused limit would be carried forward for up to 10 years and used up on a "First in first out" basis.

3.2 Member contributions and the undeducted contribution limit

3.2.1 The announcement made by the Government recently regarding the averaging of the \$150,000 limit over three years is welcome. This will provide greater flexibility for members, especially those who are approaching retirement and wish to maximise their superannuation contributions. However, we strongly suggest that the Government considers increasing the limit on undeducted contributions for those aged 55 or over, for example to \$300,000 per annum. Due to the other financial obligations of younger generations and the uncertainty created as a result of constant change in the superannuation industry, in our experience many of those in middle age are currently unprepared for their retirement and often plan to make more significant contributions in later years to provide for their retirement.

3.2.2 A cap on undeducted contributions of \$150,000 will disadvantage a significant number of people who are close to retirement who were anticipating funding their retirement from large personal undeducted contributions. Further consideration should be given to additional transitional measures which allow either people who were in the process of planning their retirement strategy on budget night to make larger undeducted contributions, or allowing a longer transitional period, perhaps to 30 June 2007 or a year or two longer, to make larger undeducted contributions. This would provide some equity for those people who had built a retirement strategy around the existing rules, but had not yet fully executed it.

3.2.3 The proposed inability to roll over employer ETPs (refer further comments below) would also clearly be a restriction on individuals providing for their retirement through superannuation. Accordingly, as one option, we propose that individuals who receive ETPs in a year should be allowed to contribute above the \$150k/\$450k limit in the year of receipt of the ETP, to the extent of the post tax amount of the ETP.

3.2.4 We believe our suggested proposals are consistent with the objective of improving incentives to work and save.

3.3 Administrative issues

3.3.1 It is likely that a complex administration system will need to be put into place to cater for the record keeping required for the relevant regulatory body to establish whether or not someone has exceeded their \$50,000 contribution limit for a particular year. This will be relevant where a person contributes to more than one fund and the Government will need some mechanism to be able to work out whether a person has exceeded their limit (similar to the former surchargeable contributions reporting system).

3.3.2 It was recognised by both the Government and funds that the surcharge reporting mechanism was extraordinarily complex, time consuming and expensive. It is unlikely that it will need to be any less complex, expensive or time consuming for the collection of data for monitoring contribution limits. It was particularly complex – and often iniquitous – for defined benefit funds. We submit that this fact alone should prompt the Government to reconsider the universal contribution system.

3.3.3 Clarification is also required regarding how the administration will work in relation to multiple funds receiving contributions for a member eg. which fund will be liable for the excess tax and who will return the excess undeducted contributions?

4. EMPLOYER ETPS

4.1 In general we disagree with the proposed inability to roll employer ETPs into superannuation. However we recognise the need to limit the amount of employer ETPs that can be rolled over. Employer ETPs can be considered to be an accumulation of retirement benefits over the employee's service period and superannuation is the logical place for this benefit to be invested. This is particularly relevant for employees who are made redundant and often receive termination payments based on years of service. We therefore propose the following alternative policies, which are consistent with the objective of improving incentives to work and save for retirement:

- grandfathering clauses for pre-existing contractual entitlements as at 9 May 2006 which, when ultimately paid, can still be rolled into superannuation at the member's request;
- allow rollover based on an annual ETP rollover limit based upon years of service; or
- allow the low rate threshold amount (but see recommendation in paragraph 4.3 below regarding this amount) to be able to be rolled over.

4.2 The proposal to prohibit the rollover of employer ETPs has the potential to impact many Australian employers with executives approaching retirement. In particular, we are already aware of a number of executives in both the public and private sectors who have ETPs included as part of their employment contracts, who are contemplating bringing forward their retirement. The reduction in retirement benefits due to taxes after 30 June 2007 is a major incentive for them to do this. This has the potential to have a detrimental impact on Australian industry and Government, with an exit of senior talent from those organisations.

4.3 Rather than have different tax rates applied to untaxed ETPs from employers and benefits from untaxed superannuation schemes, we suggest that the treatment proposed to apply to payments from untaxed schemes also applies to employer ETPs ie. that amounts above \$700,000 (rather than the proposed \$140,000 for employer ETPs) be taxed at the top marginal tax rate. This would be consistent with the objective of simplicity.

4.4 We also seek clarification of the calculation of the pre-July 1983 component for an employer ETP and suggest that the pre-July 1983 component of an employer ETP continue to be calculated on the basis of the current legislation. It will be too difficult to determine the pre-July 1983 component at any one time due to contractual contingencies that may arise, making the calculation of an employer ETP difficult at a point in time prior to it actually becoming due.

5. OTHER ISSUES

5.1 Transfers from overseas superannuation funds

5.1.1 The Government's proposal in relation to transfers of funds from overseas superannuation funds is relatively silent on the proposed treatment of those funds when they are transferred to an Australian resident superannuation fund, although we note that the proposal is for the taxable amount to continue to remain taxable in the fund.

5.1.2 We would like confirmation that benefits transferred from offshore superannuation funds to which section 27CAA currently applies, will be unaffected by the \$150,000 per annum undeducted contributions cap or the additional tax imposed on deductible contributions above the \$50,000 per annum limit. These overseas benefits generally represent earnings and contributions accumulated over many years in relation to employment activities and the imposition of an annual limit would be inappropriate. This would be consistent with the Government's policy of encouraging individuals retiring in Australia to transfer their superannuation benefits to Australian funds.

5.2 Indexation of thresholds and limits

5.2.1 We recommend that the following thresholds are indexed annually to AWOTE:

- Annual \$50,000 and \$100,000 concessional tax contribution limits
- Undeducted contribution cap of \$150,000 per person per annum
- The \$140,000 (or \$700,000 as proposed above) threshold for employer ETPs.

5.3 Bankruptcy Act

5.3.1 Under the current legislation, superannuation benefits are protected from claims arising due to bankruptcy up to the pension RBL. However, RBLs will be abolished under the proposals, therefore clarification is required regarding what amount will be protected post 1 July 2007.

5.3.2 We propose that superannuation benefits should continue to be protected from claims arising due to bankruptcy. While we agree that a limit will need to be imposed on this, the Government should ensure that those individuals with high transitional pension RBLs are not disadvantaged by any limit proposed and that any limit imposed be indexed annually.

5.3.3 This is in line with the objective to improve incentives to work and save.