

7 August 2006

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

Dear Sir/Madam

A Plan to Simplify and Streamline Superannuation - Submission

This submission is made on behalf of The Self Managed Superannuation Fund Discussion Group (“**SMSFDG**”). The SMSFDG welcomes the opportunity to provide a submission on A Plan to Simplify and Streamline Superannuation. (“**Plan**”)

By way of background, SMSFDG comprises representatives of companies who are self managed superannuation fund (“**SMSF**”) specialists. SMSFDG meets on a monthly basis to share ideas and to discuss the key issues affecting the industry. The group includes Lawyers, Accountants, Administrators, Auditors and Actuaries. All members of the group provide specialised services to SMSFs. SMSFDG is fiercely independent. The views contained in this submission are unbiased and not driven by individual agendas and as such represent the views of a key industry body.

Our Submission – Introduction

Firstly we would like to congratulate the Government on taking the step to simplify the superannuation rules. We believe that this is an important step to remove the sense of apathy the majority of Australians currently feel towards superannuation because of the perceived (or otherwise) complexity. However we do believe that there are certain areas that could be further enhanced so as to ensure the Governments objectives are achieved.

We have decided to narrow our focus to the area of contributions and in particular the Government’s objectives to “improve incentives to work and save” and “improve the adequacy of retirement incomes”. We believe that the proposed changes to deductible and undeducted contributions pose the greatest threats to the Government achieving the previously stated objectives.

Please note that whilst the group consists of SMSF specialists, our comments are not specific to that part of the industry and are relevant to all parts of the superannuation industry.

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Simplified Contribution Rules

As an overview we believe that the proposed new contribution rules (deductible and undeducted) will cause significant difficulties for those over age 50 on 9 May 2006 achieving an adequate self funded retirement.

Prior to 9 May 2006, the majority of Australians over age 50 who were working towards a self funded retirement were not making annual maximum aged based deductible contributions or regular undeducted contributions. Their plan for retirement in a lot of cases tended to revolve around making maximum aged based deductible contributions in the last couple of years leading up to their retirement and a series (or one off) of large undeducted contributions immediately prior retirement.

The main reason behind this was that most people tended not to be in a financial position to make sufficient contributions at a prior time. This is because many individuals are unable to accumulate substantial savings in the earlier part of their working lives as they need the cash flow generated from their employment to meet mortgage payments, family commitments, etc. The other reason is that they simply had not turned their attention to their retirement.

As professionals, we now have to explain to a number of these clients that the plan that they were working towards is now not possible and their desired retirement income funded through superannuation will now not be possible.

Undeducted contributions

For the reasons noted above, the cap of \$150,000 for individuals at or over age 50 on 9 May 2006 is manifestly inadequate. If there is no exemption provided to this group of people then the Government risks supporting a number of people who would otherwise have become self funded under the existing contribution rules.

We propose that the cap be relaxed or increased for those over age 50 on 9 May 2006. This will allow those that were closing in on retirement to continue to plan towards making the series (or one off) of large undeducted contributions just prior to retirement.

We note that the Government has proposed an averaging provision of \$450,000. Whilst this is a step in the right direction in relation to recognising those who have been disadvantaged by the abrupt nature of the 9 May announcement, we do not feel that this is adequate for those over age 50 (for the reasons noted above) and further it is not feasible due to the attaching work test requirements (as discussed below).

Undeducted contributions – work test rule for people aged 65 and above and the application to the averaging provisions

The fact sheet titled “Post-tax contributions” explains that the averaging provisions for those over age 65 will require satisfaction of the work test rules. As professionals advising superannuation fund members, we cannot understand how you can possibly predict whether an individual will be able to satisfy the work test rules in the future. At the time of making the undeducted contribution under the averaging provisions and

more than likely as part of a retirement strategy to ensure an adequate income stream in retirement, you will not be able to predict such things as illness, change in family circumstances or even death which would jeopardise the satisfaction of the work tests. For these reasons, as professionals how can we provide advice to clients to utilise the averaging provisions.

Further, if the work test rules are required to be satisfied in the future and after the time of the contribution, then the full averaging provisions are only available for individuals up to age 72. An individual aged 73 or 74 will not be able to take full advantage of these averaging rules and again the risk of them being unable to be self-funded will be greater.

Finally the administration burden for policing the work test rules in future years will be overwhelming. Consider the situation where a fund member makes a \$450,000 contribution in to Fund A in 2007 and then rolls this over to Fund B immediately after the contribution. The fund member then commences a pension from Fund B. Which fund will be responsible for ensuring the member satisfies the work test rules in 2008 and 2009 and if for some reason the member is unable to satisfy the work test rules in future years, what becomes of the pension?

For the reasons noted above, the work test requirements should only be applicable at the time of the contribution and not for future years when an individual falls under the averaging provisions.

Deductible contributions – removal of associated test for employees

The proposed removal of the associated test for employees combined with the individual limit of \$50,000 of concessional tax deductible contributions will discriminate against those people who have retired from their main employer but continue to provide their services to a number of employers.

For example as professionals we see a number of our clients retire or take a redundancy from their lifetime employer but are not interested in full retirement. They pursue board positions or part time roles within smaller organisations offering their many years of experience. Under the proposed rules, they will be faced with a \$50,000 limit on deductible contributions across all their employers, irrespective if they are not associated. This will obviously have a significant impact upon the Government's objective to improve incentives to work and save and individuals will be forced to accumulate savings outside of superannuation.

We propose that the current associated test, which is linked to an employee's maximum concessional tax deductible contributions be restored for the reasons noted above.

Once again we thank you for the opportunity to provide a submission and we welcome the opportunity to discuss any aspect of our submission further.

If you have any questions on the above then please do not hesitate to contact myself on (02) 4930 2100.

Yours sincerely

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Yours sincerely

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