Mercer

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Mercer (Australia) Pty Ltd
ABN 32 005 315 917
Collins Square
727 Collins Street
Melbourne, VIC Australia 3008
GPO Box 9946 Melbourne VIC 3001
T +61 3 9623 5555
www.mercer.com.au

Senate Standing Committee on Economics
Parliament House
Canberra 2600 ACT

economics.sen@aph.gov.au

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Dear Sir/Madam

An inquiry into the Better Targeted Superannuation Concessions Bills 2023

Mercer is delighted to make a submission to generally support the two Bills that will introduce an increase in the tax on investment earnings for superannuation fund members who have balances above the prescribed threshold.

Who is Mercer?

Mercer believes in building brighter futures by redefining the world of work, reshaping retirement and investment outcomes, and unlocking real health and well-being. Mercer's approximately 25,000 employees are based in 43 countries and the firm operates in 130 countries. Mercer is a business of Marsh McLennan (NYSE: MMC), the world's leading professional services firm in the areas of risk, strategy and people, with 85,000 colleagues and annual revenue of over $20 billion. Through its market-leading businesses including Marsh, Guy Carpenter, Mercer and Oliver Wyman, Marsh McLennan helps clients navigate an increasingly dynamic and complex environment.

Our support for the Bills

Mercer has long supported the need for a fairer system of superannuation tax concessions. For example, in our paper entitled *Rethinking super tax concessions* released in August 2023, Mercer recommended a reduction in the Division 293 threshold and supported the introduction of an additional tax on investment earnings for super balances above $3 million, whilst ensuring that this threshold is always greater than or equal to the indexed Transfer Balance Cap.

Therefore, Mercer supports the proposed Bills, together with a recommendation for an amendment and some additional comments reflecting the urgent need for Regulations.

Recommended amendment

Subsection 995-1(1) in the Bill defines the *large superannuation balance threshold* to be $3 million. There is no provision to index this threshold in the draft legislation. The explanatory memorandum (EM) correctly notes on page 200 that this lack of indexation means that the number of individuals impacted by the new tax will increase over time.

Subsequently the EM justifies this lack of indexation by noting that other thresholds within the tax system are not indexed, including the Division 293 tax which applies to high income earners. Yet these thresholds are not directly related to other thresholds or caps within the tax system. That situation does not apply to the large superannuation balance threshold.

As noted on p186 of the EM, a total amount up to the level of the Transfer Balance Cap (TBC) can be transferred into pension products that are exempt from any tax on investment earnings. The TBC is currently $1.9 million and is indexed to CPI. Without indexation of the large superannuation balance threshold, it is possible, indeed probable, that at some time in the future the TBC would exceed this threshold. It should also be noted that even when the large superannuation balance threshold exceeds the TBC, there is the possibility that very strong investment earnings on a pension account could lead to its balance exceeding the large superannuation balance threshold. The probability of this unhelpful outcome would be reduced by maintaining a reasonable buffer between the TBC and the large superannuation balance threshold.

It would be very strange and confusing to have the new tax payable on investment earnings of pension products which are exempt from tax in the normal superannuation pension environment. It would add further complexity to the retirement income system at the same time as Treasury's recent discussion paper on the retirement phase asked the question: "Where can Government reduce complexity in the retirement income system?"

> Mercer therefore recommends that the definition of the *large superannuation balance threshold* be amended so that the threshold is the greater of:
> - $3 million; and
> - 1.5 times the Transfer Balance Cap

This amendment would enable the threshold to commence at $3 million but also ensure that it always remains above the TBC, with a margin that would make it unlikely that the new tax would apply to retirees whose only superannuation is in retirement pensions.

This approach would mean that investment earnings from superannuation funds would be taxed at three different rates:
- 0% for earnings from assets in pension products within the TBC, thereby encouraging retirees to take up pension products and receive regular retirement income;
- 15% for earnings from assets in the accumulation phase of superannuation up to the large superannuation balance threshold; and
- 30% for earnings from assets in superannuation products above the large superannuation balance threshold.[1]

[1] This is an over-simplification of the proposal as for a person who has both a pension and an accumulation account with a total balance over $3m, the tax will apply proportionately to the combined earnings i.e., the pension earnings could not be said to be tax-free.

This progressive scale of taxation would also be consistent with the current taxation rates on concessional contributions, namely:

- 0% for low income earners;
- 15% for most income earners; and
- 30% for high income earners with the additional tax arising from Division 293.

The urgent need for regulations

Mercer strongly supports the need for regulations to determine the value of a defined benefit (DB) superannuation interest as outlined in Subsection 307-230A (2) of the Bill. Given the complexity and variety of DB interests that exist within the public and private sectors, we strongly recommend that the draft regulations relating to these interests be issued as soon as possible.

Furthermore, the draft regulations should be open for consultation for at least four weeks. A shorter consultation period is likely to lead to unintended consequences for some individuals, given the complexity of their superannuation.

In addition, as the Division 296 tax is planned to commence in the 2025-26 financial year, fund members should be informed of their superannuation balance as at 1 July 2025, or shortly after that date. The calculations for many DB members are complex and there needs to be sufficient time for the relevant calculations to be carried out after the Bill has passed and the associated regulations are known. It is therefore important that the draft regulations be issued urgently so that the superannuation industry can start to prepare for the introduction of the Division 296 tax.

Naturally, we would be very happy to discuss any of our comments with the Committee as you carefully consider these matters. Please do not hesitate to contact us.

Yours sincerely,

[redacted]

Dr David Knox
Senior Partner