



22 February 2024

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Sir/Madam,

**Consultation: Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023 and a related bill**

The Actuaries Institute ('the Institute') welcomes the opportunity to make a submission to the Senate Standing Committees on Economics ('the Committee') on the Bills and explanatory materials proposing to reduce the tax concessions for individuals with higher superannuation balances.

The Institute is the peak professional body for actuaries in Australia. Our members have had significant involvement in the development and management of superannuation in Australia, and work across APRA regulated funds, SMSFs and public sector funds.

The Bills introduced into parliament propose an additional 15 per cent tax on the earnings on superannuation balances that exceed \$3 million. This would be legislated via insertion of a new Division 296 within the Income Tax Assessment Act 1997 (the **Division 296 Tax**). The Institute reiterates its support for targeted initiatives such as this measure that aim to reduce superannuation tax concessions on very large balances so that the retirement income system is more sustainable and equitable. However, any changes should minimise unnecessary complexity and protect public confidence in superannuation as an effective long-term savings vehicle for retirement.

The Institute remains concerned about several aspects of the Bills, most notably the precedent introduced by taxation of unrealised capital gains, the need for indexation of the \$3 million threshold once it equals the Transfer Balance Cap threshold (currently \$1.9 million but indexed) and providing an adequate timeframe for orderly implementation of the Bills. These were detailed in [our submission](#) to Treasury on the draft legislation.

Given the shortening time remaining to the proposed 1 July 2025 commencement of the measure, the Institute now has heightened concern about orderly implementation of the measures. To address orderly implementation, we recommend the Committee consider:

- The need for timely and sufficient consultation on the draft regulations. In particular, the draft regulations would outline the methodology for applying a broadly commensurate treatment of the Division 296 Tax to defined benefit interests. Given the considerable variation in design of defined



benefit arrangements in the pre-pension phase and the inappropriateness of the current method for valuing defined benefit pensions, adequate and timely feedback on the draft regulations would benefit significantly from extended (certainly not less than 4 weeks) public consultation as soon as practicable.

- The benefits of incorporating a statutory post implementation review clause in the legislation after an initial period following commencement (for example, after 2 years). In our view, the benefits of this would include:
  - A legislative commitment from Government to identify and fix any unintended and undesirable outcomes from the Division 296 Tax. This would help alleviate stakeholder concerns around the risks associated with the compressed timeframes afforded in consultation to date. Ensuring issues with the new measure are promptly addressed is critical given the Division 296 Tax, as proposed, would successively apply to larger cohorts of individuals over time.
  - On the basis that the ATO will initially implement the data collection needed to administer the measure using a targeted approach (given the relatively few individuals expected to be initially impacted), a post-implementation review would provide an appropriate juncture for consideration of how the Division 296 Tax can be most efficiently administered going forward.
  - Noting one of the primary concerns raised by stakeholders is around the non-indexation of the \$3 million threshold and its long-term interaction with the Transfer Balance Cap, this would provide certainty to the Australian community that this matter will be re-examined by Government in the future.

The Institute may be contacted in relation to any questions on this submission. If you would like to do so, please contact the Institute via [REDACTED] or [REDACTED]

Yours sincerely

(Signed) Elayne Grace

CEO