

21 October 2016

Manager  
Superannuation Tax Reform  
Retirement Income Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT

By email: [superannuationobjective@treasury.gov.au](mailto:superannuationobjective@treasury.gov.au)

### **Superannuation Reform Package – Second and Third Tranche**

The IPA welcomes the opportunity to provide a submission on the exposure draft legislation containing the second and third tranche of the Government's Superannuation Reform Package announced in the 2016-17 Budget.

The IPA is a professional organisation for accountants who are recognised for their practical, hands-on skills and a broad understanding of the total business environment. Representing more than 35,000 members and students in Australia and in more than 80 countries, the IPA represents members and students working in industry, commerce, government, academia and private practice. More than 75 per cent of our members work in or with small business and SMEs and are recognised as the trusted advisers to these sectors.

Given the short time frames to provide for submissions, our comments are not exhaustive and are limited to the substantive issues contained in the explanatory material. We understand the time pressure on the Government to finalise draft legislation to allow sufficient time for stakeholders to implement the necessary changes by the 1<sup>st</sup> July 2017. As superannuation changes impact people's retirement plans, there needs to be clarity and certainty restored after much debate over the proposed changes since they were announced on budget night. In an

**National Office**

Level 6, 555 Lonsdale Street, Melbourne VIC 3000 Australia | GPO Box 1637 Melbourne VIC 3001 Australia

**t** +61 3 8665 3100 **f** +61 3 8665 3130 **e** [natoffice@publicaccountant.org.au](mailto:natoffice@publicaccountant.org.au) **w** [publicaccountants.org.au](http://publicaccountants.org.au) ABN 81 004 130 643



environment that is becoming increasingly reliant on Australians to self-fund their retirement, it is vital that we have certainty and confidence in our superannuation system.

We are however very concerned with unduly complicated process chosen to implement the policy reforms. One of the secondary objectives drafted of the superannuation system is to make the superannuation system simple and therefore any proposed changes need to be judged on this basis. Whilst it has been emphasised that only a small minority will be directly impacted by the transfer balance cap, adding considerable complexity to the superannuation system with its ongoing administration will need to be borne by all superannuation fund members. To achieve cost efficiencies, a regulatory environment that is not overly complex is required. The proposed transfer cap is adding more complexity rather than making the system less convoluted. The demise of the reasonable benefits system back in 2006, should serve as a reminder of the administrative issues a cap introduces and the Government needs to keep front of mind the disproportionate cost imposed on trustees relative to the number of individuals ultimately affected by the proposed provisions.

## **Transfer Cap**

There are significant structural, transitional and implementation issues associated with implementation of this policy measure. Those who have been around for some years, remember the reasonable benefits limit system which was removed on 30<sup>th</sup> June 2006. It was well noted at the time that there were many reporting problems not envisaged when the law was developed. The ATO acknowledged at the time, that the overall effort required to administer reasonable benefits (RBL) limits appeared disproportionate to the number of individuals ultimately affected by the rules.

The transfer balance cap provisions seem to be heading in the same direction as the RBL system and we need to assess whether there are simpler alternative ways of achieving the government's objectives of restricting access to the tax



concessions for superannuation accounts. The policy settings the Government has set, preclude looking at alternative models such as leaving existing systems intact and dealing with limiting the tax concessions when the super benefits are paid to recipients. The benefit of this model, whilst not devoid of its own issues, allows existing tax structures for superannuation funds and pensions to continue unaffected without overlaying complex arrangements into the system.

One of the other significant issues is dealing with a realistic scenario of a significant fall in the value of an account balance due to a sharp downturn in financial markets or poor investment. The explanatory memorandum states changes to the value of a superannuation interest that supports a superannuation income stream after the initial valuation are effectively ignored. If we dealt with the income in the hands of the recipient, this scenario would be better dealt with under such a proposal.

There is also the issue of how relevant information from different funds and accounts will be drawn together so adjustments can be made to balances to comply with the proposed transfer balance cap, and the new limits on non-concessional contributions. Accountants, financial advisers, trustees, superfunds and regulators will need to come to terms with complex rules associated with the transfer cap provisions. The situation is further complicated when an individual has multiple superannuation accounts, or has unfunded public sector accounts, or has a combination of pension and accumulation accounts.

### **Concessional Superannuation contributions**

IPA does not support the reduction of the contribution caps to \$25,000 and in particular the reduction of the current cap of \$35,000 for individuals aged over 50 years of age. People aged over 50 should be encouraged to make further superannuation contributions especially when they have the capacity to do so to address any superannuation balance shortfall.

The situation is further exasperated as the Government has also announced the deferral of the proposed catch up measure until 1 July 2018, which effectively



means the first catch up will not be available until the 2019/20 financial year. The deferral was a budgetary decision to partially offset the cost of re-introducing an annual non-concessional contributions cap. The current annual concessional contribution cap for over-50s which is \$35,000 is less than a third of what the cap was 10 years ago. The May 2010 Henry Tax Review supported a higher contribution cap for Australians aged 50 or over.

### **Catch-up concessional contributions & Innovative income streams**

We welcome these policy initiatives. The catch-up facility allows members who may not have had the capacity in previous years to increase their superannuation account balances to a level commensurate with that which they would have enjoyed if the concessional cap had been fully utilised. The main issue we have in relation to the catch-up contribution proposal is account balance requirement. The catch up is conditional on the basis that the member has an account balance of less than \$500,000. This pre-condition is problematic, especially when an individual has multiple superannuation accounts, or has unfunded public sector accounts, or has a combination of pension and accumulation accounts. The Labor Party attempted to introduce a concessional cap for the over 50s based on a \$500,000 balance but gave up on the idea when it realized the sizeable administrative issues the industry faced in trying to deal with such a proposal. In relation to innovative income streams we support measures to encourage innovative retirement income products by removing some of the tax barriers to the development of such products. This is one of the missing links in our retirement system and we look forward to the Government making the necessary changes to the pension and annuity regulations to affect these changes.

### **Non- Concessional Contribution Cap**

We were pleased that the Government scrapped its original proposal to introduce a \$500,000 lifetime cap on non-concessional contributions. In its place is the proposal to introduce an annual \$100,000 non-concessional cap. The change however, came at a cost with the axing of the work test for individuals aged



between 65 to 75 years. The new proposal has addressed the contentious aspect as individuals nearing retirement are no longer compromised by retrospective policy. The measure will be problematic for a small number of individuals who have high superannuation balances. Anyone with more than \$1.6 million in super will not be able to make non-concessional contributions, or make non-concessional contributions that would mean they exceeded the \$1.6 million amount in super. The \$1.6 million threshold for making non-concessional contributions will be based on an individual's balance as at 30 June of the previous financial year. We assume this means, for example, that if you plan to make non-concessional contributions in March 2018, then the superannuation account balance will be measured as at 30 June 2017. Using another example, if you plan to make an after-tax super contribution in July 2017, then the \$1.6 million threshold will be measured as at 30 June 2017. There will be some practical issues in tracking exact balances especially for Australians with multiple superannuation accounts and the valuation of assets at 30 June each year could be problematic. There will also be some transitional issues with the old and new bring forward rules and the \$1.6 million eligibility threshold which will lead to confusion and errors. Again taxpayers who inadvertently breach the rules should be treated fairly during the transition period.

The IPA welcomes the opportunity to discuss further any of the matters we have put forward in our submission. Please address all further enquires to myself

[Redacted signature]

Yours sincerely,

Tony Greco FIPA  
General Manager Technical Policy  
Institute of Public Accountants