INDUSTRY FUNDS FORUM INC

Submission to the Senate Standing Committee on Economics
Tax Laws Amendment (2009 Measures No.1) Bill 2009

24 February 2009

Industry Funds Forum Inc.
Industry Funds Centre
Level 12
44 Market Street
Sydney NSW 2000

WHO WE REPRESENT

The Industry Funds Forum (IFF) is an incorporated association made up of the Chief Executive Officers of 24 of Australia's largest industry superannuation funds (Industry Funds) (See Attachment).

These Industry Funds include multi-industry and industry-specialist, national and state funds. Collectively members of IFF represent over 9 million accounts, over 550,000 participating employers and manage around $120 billion in retirement benefits[1].

IFF is able to provide a broad cross section of the views and interests of Industry Funds and their members who are representative of average Australians.

PURPOSE OF THE CONSULTATIONS

The consultations are being held to seek the views of industry in relation to changes proposed to a number of taxations laws, including:

- amendments to various Acts necessitated by recent changes to the unclaimed money regime for temporary residents (superannuation);
- amendments to make the unclaimed money regime for temporary residents more compatible with the broader unclaimed money regime;
- alignment of income tests used to determine eligibility for the dependency tax offsets with the income test used for family assistance payment purposes. In particular, superannuation contributions will be assessed including all deductible personal contributions made by an individual and any employer contributions that an employee can influence.
- introduction of expanded income tests for determining eligibility for a range of government financial assistance programmes;
- provision of a 20 per cent reduction of the 'pay as you go' instalment for the December quarter 2008 for certain small business;
- setting out the method by which the Commissioner of Taxation determines the amount of the 'pay as you go' quarterly instalments.

[1] Figures apply as at 30 June 2008

WHAT OUR SUBMISSION ADDRESSES

Our Submission focuses on:

- **Best interests of members**: What is in the best interests of the members whose retirement savings are entrusted to Industry Funds to manage with the view to maximising those retirement savings, while still having regard for security and cost.

- **Equity between members:** Reducing and where possible removing, any potential inequities or discrimination between members or groups of members.

- **Opportunities/disadvantages:** Identifying opportunities to improve the initiative and highlighting any disadvantages of the proposed changes.

- **Costs and complexity:** Identifying any additional obligations or added complexity associated with the proposed changes, and any costs or other disadvantages which will ultimately result in a reduction of members' retirement savings.

IFF welcomes the opportunity to participate in this consultation and welcomes further discussion on the important issues raised in our submission.

IFF in very concerned about the proposed change for all withdrawals from superannuation being counted as income in the year of withdrawal and due to the very short time frame for consultation we have confined our submission to:

- address this proposed change; and
- to briefly comment on the possible impact for employees receiving mandatory employer superannuation contributions in excess of the 9% Superannuation Guarantee rate.

IFF strongly urges the Committee to not proceed with this change and to retain the current laws which allow ad hoc withdrawals without affecting Age pension entitlements.

CONTACT DETAILS

Please contact Helen Hewett, IFF Executive Officer on 0417341235 or helenhew@bigpond.net.au if you require any further information on this submission or wish to discuss same.

PROPOSED CHANGE TO TAXATION LAW

The change seeks to:

- **"alignment of income tests used to determine eligibility for the dependency tax offsets with the income test used for family assistance payment purposes. In particular, superannuation contributions will be assessed including all deductible personal contributions made by an individual and any employer contributions that an employee can influence."**

If this change was implemented it would have significant implications for many superannuation fund members. The following simple examples highlight the implications:

Example
Fred is aged 65, on an Age pension, and has $100,000 in an Allocated Pension from which he draws the minimum amount of 5% per annum. He has no other assets and so his income is:

Allocated Pension	*$ 5,000*
Age Pension	*$14, 771 (he qualifies for the full amount)*
TOTAL INCOME	*$19,771 per annum or $760.42 per fortnight*

Let's assume Fred decides to withdraw $20,000 to replace his car. The proposed change would mean that this $20,000 withdrawal would be counted as income. This would mean that Fred would lose a significant amount of the Age pension, even though his assets have not changed.

Fred's income position after the withdrawal and under the proposed change would be:

Allocated Pension	*$ 4,000 (still drawing 5%)*
Age Pension	*$ 8,206 (he now qualifies for only 56% as he will be deemed to have income of $20,000 for one year)*
TOTAL INCOME	*$12,206 per annum or $469.46 per fortnight*

Fred is not a high income earner, he has not been excessive, yet he is being severely penalised for replacing an asset that periodically needs replacing.

Imagine a similar story only this time its Marie and she has to have an urgent hip replacement or other urgent medical attention.

The proposed change would be extremely unfair and unpopular.

The attached paper prepared by Frank Gayton, Head of Practice, IFS Financial Planning was presented to a recent conference 'The Challenges of Growth: Conference 2009 clearly demonstrates how 'unusual' the taxation laws are, and the disincentives they provide for non-working spouses to return to work. They also now apply to same sex couples. With Frank Gayton's permission I attach a copy of this paper for your information.

Another issue for consideration is the anomaly that will be inadvertently captured with the proposed new taxation laws in relation to superannuation is one that will occur when an employer contributes more than the mandated 9%. For example, a company has agreed to pay 10% employer superannuation contributions. Under the proposed changes, the extra 1% will be added to assessable income and will have a detrimental effect on qualification for other benefits. Perhaps an exemption could be allowed where an industrial agreement requires an employer contribution higher than the 9% Superannuation Guarantee rate, so that the amount in excess of the 9% is not included for the purposes of calculating an entitlement to other benefits such as Family Tax A and Family Tax B.

Our position:

IFF urges to Committee to retain the existing taxation laws which allow ad hoc withdrawals without affecting Age Pension entitlement.

Further IFF urges the Government to consider how to ensure that employees with entitlements to mandatory employer superannuation contributions in excess of the 9% Superannuation Guarantee rate are not disadvantaged when it comes to accessing benefits such as Family Tax A and Family Tax B.