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8 March 2012

Dr Richard Grant
Acting Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Email: corporations.joint@aph.gov.au

Dear Dr Grant,

INQUIRY INTO THE SUPERANNUATION LEGISLATION AMENDMENT (MYSUPER CORE PROVISIONS) BILL 2011 - URGENT NEED FOR CGT ROLL-OVER RELIEF

The Association of Superannuation Funds of Australia ("ASFA") would like to provide this further submission in relation to the Committee's Inquiry into the above Bill.

As raised in our initial submission to the committee dated 23 January 2012, and stated in evidence at the hearing in Canberra on 2 March 2012, there is an urgent need for the Government to provide Capital Gains Tax ("CGT") rollover relief where superannuation funds merge. At the hearing a suggestion was made that CGT roll-over relief may be being provided, however, this is not the case and urgent action needs to be taken in this regard.

Without CGT roll-over relief, should a merger proceed at this time, the level of deferred tax assets ("DTA") will mean that the tax loss will crystallise and reduce the amount in members' accounts.The industry average value of DTAs as at December 2011 was approximately 0.7% of funds under management ("FUM"), while for industry funds it was 1.1% of FUM. Given the March quarter returns, this can be expected to increase.

The effect of the loss of DTAs on merger upon members' accounts can be significant. By way of example, ASFA is aware of a member of one fund that at age 63 with a salary of $68,631, would incur a reduction in their benefit of $7,241, with little opportunity to recover.

This means that - if the Government fails to provide CGT roll-over relief - working Australians will be hurt. We have included further information with respect to this in Annexure A.

In other cases, without CGT roll-over relief, fund mergers simply will not take place, to the detriment of the members.

The most efficient and cost effective time to merge is 1 July. To be able to merge with effect from 1 July 2012, trustees require a minimum of three months to provide "significant event notices" to members and give notice to key contractors. Accordingly, the Government would need to announce any CGT roll-over relief by 23 March to enable trustees to decide whether proposed 1 July mergers can proceed. If a merger does not proceed costs already incurred by the fund with respect to the merger will still have to be borne by fund members.

It is important to note that,CGT rollover relief has been allowed for business reorganisations where no change occurs in the beneficial ownership of the underlying assets. Fund mergers - where it is only the legal, and not the beneficial, ownership of the assets which changes - are entirely consistent with the policy principle behind the business reorganisation rule and, as such, CGT roll-over relief should be available for fund mergers on the same basis as it is for business reorganisations. However as a minimum, given the significant impact of the Stronger Super changes and in particular MySuper we have urged the Government repeatedly to provide interim relief until end 2014 in line with relief granted when APRA licensing was introduced some years ago and many mergers occurred.

We would be happy to discuss any aspect of our submission with you further.

If you have any queries or comments regarding the contents of our submission, please contact me.

Yours sincerely

Pauline Vamos
Chief Executive Officer

1) Background

In response to the Government's Stronger Super reforms and the introduction of MySuper, many smaller funds are considering whether to continue to operate on a stand-alone basis or merge with another fund.

Low and medium income earners in particular would be affected by failure to provide CGT roll-over relief on fund mergers because: -

- a significant portion of higher account balances are in SMSFs which are not affected by the Stronger Super reforms;
- it is generally smaller funds which are considering merging into other funds. The DTA position of smaller funds tends to be a higher proportion than for larger funds principally due to larger funds being able to use their larger cash flows to buy more assets when markets fall

A number of superannuation funds in the process of merging, or considering merging, have provided us with an assessment of their current level of DTAs (which fluctuate daily) and the impact on the account balances of some individual members of their fund if a merger were to proceed without CGT roll-over relief.

Information provided to ASFA has revealed that the average account balance in funds which are currently considering merging with a particular industry fund varies from approximately $32,000 to $166,000. This indicates that the impact of the loss of DTAs on merger will principally be felt by those with relatively small superannuation account balances.

2) Current level of DTAs and impact of absence of CGT roll-over relief on fund members

Some examples of the effect on members of superannuation funds are as follows: -

Fund A

- current DTA position is 0.82% of FUM
- members include gardening workers and garbage collectors;
- typical member would expect to earn approximately $66,000 a year;
- average reduction in benefit would be approximately $466;
- some members impacted by as much as $11,400;
- examples of the impact on individual members include: -
  - Mr P, age 63 with a salary of $68,631, would incur an immediate reduction in his benefit of $7,241;
  - Ms L, age 45 with a salary of $48,547, would incur a reduction in her retirement benefit at age 65 of $6,219 (based on earnings of 7% per annum for 20 years, not adjusted for inflation).

Fund B

- current DTA position is approximately 1.77% of FUM;
- a member with an average account balance of $20,000 would incur a reduction of $350.

Fund C

- current DTA position is approximately 2.1% of FUM;
- a member with the fund's average account balance of $106,711 would incur a reduction of $2,216.

Fund D

- current DTA position is approximately 2.03% of FUM;
- high growth members would lose nearly 96 basis points and medium growth members 2 or 3 basis points;
- a high growth member with an account balance of approximately $55,556 would incur a reduction of $529, nearly 1% of the member's balance;
- a medium growth member with an account balance of approximately $28,458 would incur a reduction of $61.

About ASFA

ASFA is a non-profit, non-politically aligned national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.