

12 March, 2012



**The Institute of  
Chartered Accountants  
in Australia**

Ms Julie Owens MP  
Committee Chair  
House of Representatives Standing Committee on Economics

By email: [economics.reps@aph.gov.au](mailto:economics.reps@aph.gov.au)

Dear Ms Owens,

**Review of the Tax and Superannuation Laws Amendment (2012  
Measures No. 1) Bill 2012**

The Institute of Chartered Accountants in Australia (the Institute) is the professional body representing Chartered Accountants in Australia. Our reach extends to around 70,000 of today's and tomorrow's business leaders, representing more than 57,000 Chartered Accountants and 13,000 of Australia's best accounting graduates currently enrolled in our world-class Chartered Accountants postgraduate program.

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The Institute would like to take this opportunity to make the following comments in relation to the review of the Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012

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## **Australia's superannuation system**

A significant issue facing the government and the broader community is the declining confidence Australians have in our retirement income system.

Constant tinkering by successive governments has eroded the confidence of many Australians in their superannuation. While various incentives to save in the superannuation system are currently available, many Australians do not believe that the rules will still be in place when the time comes for them to retire and access their retirement savings. Many believe that superannuation has become a tool for balancing the government budget and that they can no longer rely on government commitments in relation to the superannuation system.

While the Institute appreciates the intent of a number of the measures contained in the Bill, it holds considerable concerns that the current measures exacerbate this situation rather than provide positive outcomes, particularly in relation to excess contributions tax. It is unfortunate that a number of the measures are at odds with previous commitments made by government.

## **Indexation of superannuation concessional contributions cap**

At the time of introduction of superannuation contribution caps, the government removed age based deduction limits for super contributions and introduced tax free benefits for those over the age of 60. The rationale being that where such concessions were given for benefits leaving the super system, the amount going into the concessional tax environment should be restricted. The Institute supports this rationale and the concept of contribution caps.

It was and is reasonable however to expect that the level at which contribution caps were set would be indexed to allow people to keep up with inflation in terms of the amount they could save for retirement. In order to allow for an adequate or indeed a more comfortable retirement, the contribution level needs to rise over time.

While the Institute appreciates government budgetary constraints, the pause in indexation of the concessional contribution cap may have longer term implications for retirement savings. The ability for Australians to contribute to superannuation will be further restricted, impacting on the cumulative effect of earnings during their working lives. The government had previously committed to indexing the concessional caps. Ultimately it is another action, or inaction in super that erodes at the confidence of Australians in the super system.

The Institute believes that the government should not pause the indexation of the contributions caps now or in the future.



### **Superannuation – refund of excess concessional contributions**

The Institute takes this opportunity to express its considerable concerns around excess contributions tax legislation and the increased complexity that this new legislation adds to an inequitable and complicated tax regime.

We appreciate that the policy driving the amendments contained in this legislation are designed to provide some relief to those Australians who have inadvertently made (or have inadvertently had made for them) superannuation contributions in excess of their concessional contribution cap and would otherwise be subjected to excess contributions tax. However, we believe that the availability of the relief is so limited that it does little to truly address the inequities of the excess contributions tax regime. We believe that this regime urgently requires a significant overhaul to enable the refund of all excess contributions. Such measures are required for equity, simplicity and to move towards restoration of confidence of Australians in the superannuation system.

The new legislation for refund of excess concessional contributions is detailed and complicated. We believe it is too restrictive and contains measures that do not go to the heart of the policy intent to provide relief to Australians inadvertently making excessive contributions.

It is worth noting that excess contributions tax was only ever intended as a disincentive to exceeding the caps, to ensure that people making superannuation contributions stayed below the maximum amount or those who did exceed the caps received no benefit from doing so. It was not intended to be a source of revenue. While the concept of contribution caps is reasonable, the penalty regime for inadvertently exceeding those caps is not.

No other part of the taxation system imposes such significant penalties for breaches. Up to 93% of the excess contribution can be payable as a penalty, with excess contributions tax assessments of \$70,000 or more being triggered by excess amounts of just a few cents. Furthermore, there exists nowhere else such an inability to rectify a mistake. If a person makes an inadvertent error in their income tax return, they are able to notify the Commissioner of Taxation to amend their return. If a person makes a mistake in contributing too much into superannuation or is unaware that a breach of the caps has occurred, there is very little that can be done to rectify the situation. The majority of breaches are inadvertent errors with excess contributions tax being imposed in the majority of cases. Again, such an onerous and unfair tax serves to undermine the confidence of Australians in the super system.

### **Superannuation – payslip reporting**

The Institute supports the provision of information to employees by their employers of employment related financial information including superannuation.



However, the new legislation essentially requires reporting of anticipated superannuation contributions and the date on which the employer expects to pay them. This will assist employees in reconciling their superannuation entitlements, however it is limited in its usefulness in determining what contributions have actually been made for them and when. This is vital information for those who are attempting to maximise their super contributions without exceeding their contribution caps.

