



**CPA Australia Ltd**  
ABN 64 008 392 452

**Australian Capital Territory**  
Level 8, CPA Australia Building  
161 London Circuit  
Canberra ACT 2601  
Australia

GPO Box 3260  
Canberra ACT 2601  
Australia

**Phone** 1300 737 373

**Outside Aust** +612 6267 8585

**Fax** +612 6267 8555

**Email** [act@cpaaustralia.com.au](mailto:act@cpaaustralia.com.au)

**Website** [cpaaustralia.com.au](http://cpaaustralia.com.au)

9 March 2012

The Secretary  
Standing Committee on Economics  
House of Representatives  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

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

Dear Mr Monk

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

CPA Australia represents the diverse interests of more than 139,000 members in 114 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders. We welcome the opportunity to provide our views to the above review.

This submission has been prepared with the assistance of CPA Australia's Retirement Savings Centre of Excellence (CoE). The CoE is a member based committee that includes leading experts from the superannuation industry. Our superannuation experts work across major components of the superannuation industry ranging from some of the largest industry, corporate and retail funds through to self-managed superannuation funds.

CPA Australia wishes to comment on the superannuation related schedules of the above bill, namely Schedules 3 to 6.

#### **Schedule 3**

CPA Australia recognises the need to properly target but limit the taxation concessions available within the superannuation system. While it is appropriate to limit the amount of money that can be contributed by or for an individual to the superannuation system on a concessional basis, we believe the current contribution caps, particularly the concessional contribution caps, are both confusing and inflexible. As a consequence, they act as a deterrent that prevents many ordinary Australians from saving adequately through superannuation in order to maintain an appropriate standard of living in retirement. Further, the penalties for exceeding the caps are excessive, even for the most inadvertent errors, compared to penalties in other areas.

While the halving of the concessional contribution cap from 1 July 2009 may have reduced some of the disproportionate tax concessions enjoyed by high income earners, it also reduced the ability of average Australians to adequately save for their own retirement.

Many people, particularly the self-employed, have 'lumpy' income and only contribute to their superannuation when times are good. Others, in their late forties or early fifties, having paid off the mortgage and paid for their children's' education, look to put the extra funds into their super to make up for previously inadequate contributions. Women, in particular, with family commitments and broken work patterns find it difficult to ever catch up on contributions missed.

The reduction in the contribution limits also came at a time when many Australians were only just starting to see the value of their superannuation recover from the impact of the global financial crisis and people, particularly those close to retirement, were looking to get more money into their super to make up for the loss before they retire. While it may be argued that people will save outside superannuation for their retirement, our members are not seeing this. Any savings outside superannuation can be or are being consumed prior to individuals reaching their retirement.

CPA Australia does not support the pausing of the indexation of the contributions caps contained in Schedule 3. Notwithstanding the current budgetary constraints and the fact that indexation will recommence in 2014-15, we believe the current caps, particularly the concessional cap, are too low and the real value of the caps are being continually eroded, first by the resetting of the caps in 2009 and now by this freeze on indexation. As a result, it is becoming increasingly difficult for many people to adequately save for their retirement.

#### **Schedule 4**

Although the contribution caps are aimed at limiting the concessions available to high income earners, over 30,000 people exceeded the contribution caps in both 2007-08 and 2008-09 and over 70,000 exceeded them in 2009-10 after the concessional contribution caps were halved. This suggests the impact is much greater than the policy change intended, capturing many middle income earners, and that the caps are simply too confusing for many people to understand and comply with.

While the refund mechanism contained in Schedule 4 may eliminate the excess contribution tax problem for many people who inadvertently exceed their concessional contribution cap, it is quite limited, inflexible and its complexity will merely add to the confusion surrounding the contribution caps. In particular:

1. Only the first eligible breach is refundable regardless of the value of that breach (even if it is just one dollar). Individuals who breach their concessional contribution caps for reasons outside of their control, for example contributions from multiple employers or unexpected bonus payments, will continue to be penalised. We believe excess concessional contributions should be refundable on an ongoing basis.
2. The refund is a one-off 'use it or lose it' option. Since only the first eligible breach is refundable, individuals who reject the refund in a particular year would then be ineligible to receive a refund in later years. This feature significantly narrows the scope of the refund in many cases. For example, even a small excess concessional contribution, as little as a dollar, would mean the individual would not be eligible for a refund in later years. Similarly, someone who exceeded the \$10,000 threshold, even by a small amount, would be ineligible for a refund in later years. Again, we believe excess concessional contributions should be refundable on an ongoing basis. We are also concerned that many individuals will not understand this feature and will attempt to 'save' their refund if the excess is an insignificant amount just in case the cap is exceeded by a more significant amount in a subsequent year.

3. Under the measure, the refunded contributions are to be treated as assessable income of the individual in the year in which the contributions are made but will be paid to the Tax Office as a credit against any income tax or other government payments payable. That is, the Government has priority access to the refund before the individual. We believe this is unreasonable as the Government would not have had unfettered access to this money if the excess contribution had not been made and the individual had received the amount as income. We also believe this is inconsistent with the policy intent of the legislation, which was to provide relief to those taxpayers who had inadvertently breached the concessional contribution cap.
4. We are concerned that the administration associated with the refund of the excess contributions will be unwieldy and costly. We believe that it would be more appropriate for the ATO to have broad discretionary powers to treat an amount as not being an excess contribution so that penalties could be imposed in circumstances where it is warranted.
5. We note that the Budget announcement of the measure by the Government was limited to concessional contributions. We believe the government should also consider what actions can be taken to restrict the application of penalty tax applying to inadvertent breaches of the non-concessional contributions caps.

Despite the fact the refund of excess contributions tax will provide some relief, it also highlights the flaws in the operation of the contribution caps. CPA Australia believes the contribution limits remain too low, are too complex and inflexible and should at least be restored to their previous limits. We also believe the government should consider the introduction of a 'lifetime' concessional contribution cap whereby any 'unused' contribution limit, i.e. the amount above the actual contribution made, in one year could be accumulated and added to the limit in later years. At the very least a rolling cap, similar to the 'bring forward' rule for non-concessional contributions cap should be considered.

#### **Schedule 5**

CPA Australia supports the intent of the amendments contained in Schedule 5.

#### **Schedule 6**

CPA Australia supports the intent of the amendments contained in Schedule 6.

If you have any questions regarding the comments, please do not hesitate to contact me on 02 6267 8552.

Yours faithfully

**Michael Davison**  
**Superannuation Policy Adviser - Superannuation**

T: +61 2 6267 8552  
F: +61 2 6267 8555  
E: michael.davison@cpaaustralia.com.au